

In the High Court of Punjab and Haryana at Chandigarh

CRM M-13577 of 2015
Date of Decision: April 29, 2015

Raj Bala and another

... Petitioners

Versus

Seema Gupta

... Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Amit Kohar, Advocate,
for the petitioners.

Paramjeet Singh, J. (Oral)

Instant petition has been filed under Section 407 read with 482 of the Code of Criminal Procedure for transfer of criminal complaint No. 247/15.06.2013 titled as “Seema Gupta vs. Om Parkash Gupta and others”, under Sections 498-A, 406, 323, 506, 34 IPC, pending in the Court of learned Sub Divisional Judicial Magistrate, Hansi, District Hisar to any other Court of competent jurisdiction at Jagadhri, District Yamuna Nagar.

I have heard learned counsel for the petitioners and perused the record.

The respondent-complainant has filed a complaint on the ground of harassment, misappropriation and causing injuries to the complainant, in which the petitioners have been summoned. Learned

counsel relies upon a judgment of Hon'ble Supreme Court of India in Satish Jaggi vs. State of Chhattisgarh and others, 2007(2) R.C.R. (Criminal) 116 to contend that convenience of the parties would be seen.

I have perused the aforesaid judgment.

In Mrs. Maneka Sanjay Gandhi and another vs. Miss. Rani Jethmalani, AIR 1979 SC 468, Hon'ble Supreme Court has observed that assurance of a fair trial is the first imperative of the dispensation of justice and the central criterion for the court to consider when a motion for transfer is made is not the hypersensitivity or relative convenience of a party or easy availability of legal services or like mini grievances. Something more substantial, more compelling, more imperilling, from the point of view of public justice and its attendant environment, is necessitous if the Court is to exercise its power of transfer. This is the cardinal principle although the circumstances may be myriad and vary from case to case. Courts must test the petitioner's grounds on this touchstone bearing in mind the rule that normally the complainant has the right to choose any court having jurisdiction and the accused cannot dictate where the case against him should be tried. Otherwise also, the convenience of the parties, including witnesses to be produced at the trial is also relevant. Here in the present case, it is the complainant who has to lead the evidence in her complaint. There is no other allegation raising reasonable apprehension, that injustice would be done to the petitioners.

Only on the grounds of the age of the petitioners and that some minor children are residing with them, case cannot be transferred.

In view of this, no ground for transfer of the case is made out.

Dismissed.

April 29, 2015
vkd

[Paramjeet Singh]
Judge