

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-15341-2014

Date of decision: 28.10.2015

Ajaib Singh

... Petitioner

Vs.

State of Haryana and anr.

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Sachin Gupta Ladwa, Advocate
for the petitioner.

Mr. Kapil Aggarwal, Addl. AG, Haryana.

Mr. K.S. Dhaliwal, Advocate
for respondent No.2.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 10.02.2014 passed by the learned Chief Judicial Magistrate, Kurukshetra (Annexure P-3), transferring the case from Kurukshetra to Pehowa, petitioner has approached this Court, by way of instant petition under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short) for quashing the impugned order (Annexure P-3).

Notice of motion was issued.

Learned counsel for the petitioner submits that the only reason which compelled the petitioner to approach this Court is that no counsel was ready to accept his brief at Pehowa and this was the difficulty which was being faced by the petitioner in defending himself. Facing this difficulty, he moved an application on which earlier order dated 25.11.2013 (Annexure P-2) was passed. Thereafter, respondent-wife moved the application which was

illegally accepted by the learned Chief Judicial Magistrate again transferring the case from Kurukshetra to Pehowa causing serious prejudice to the petitioner. He prays for allowing the present petition.

On the other hand, learned counsel for the State as well as learned counsel for the complainant-respondent No.2 submit that the impugned order has been passed at the instance of respondent-wife because she was staying at Pehowa and could not have been forced to pursue her case, while travelling to Kurukshetra only for the convenience of the petitioner. They further submit that order is fully justified on facts as well as in law and the same deserves to be upheld. They pray for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length and after careful perusal of the record of the case, this Court is of the considered opinion that instant petition is wholly misconceived. It is so said because a bare perusal of the order passed by the learned Chief Judicial Magistrate, Kurukshetra would show that the case was transferred at the instance of the complainant-wife who is resident of Pehowa. Learned counsel for the petitioner could not point out any reason as to why the complainant should be forced to pursue her case, while travelling from Pehowa to Kurukshetra. It is not the convenience of the petitioner which would be a decisive factor for transferring the case. Once the trial was going on at Pehowa, there was no compelling reason with the learned Court for passing the order (Annexure P-2). That patent illegality, while passing the order (Annexure P-2) was rectified and rightly so by the learned Chief Judicial Magistrate, Kurukshetra, while passing the impugned order

(Annexure P-3).

If the petitioner was facing any difficulty in engaging any learned member of the bar at Pehowa, he was at liberty to entrust his brief to any member of the bar at Kurukshetra because distance between both the places is only about 25 Kms. Further, learned counsel for the petitioner has failed to point out any jurisdictional error or patent illegality in the impugned order passed by the learned Court below, so as to entitle the petitioner to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C.

No other argument was raised.

In view of what has been discussed hereinabove, instant petition has been found to be wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

28.10.2015
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