

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

**Crl. Misc. No.M-21183 of 2015
Date of decision : 28.07.2015**

Usha Aggarwal

.....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

Present: Mr. Munish Kumar Garg, Advocate
for the petitioner.

ANITA CHAUDHRY, J(ORAL)

A petition under Section 407 Cr.P.C. has been filed seeking transfer of the case which is presently pending before the Chief Judicial Magistrate, Sonapat to any other Court having jurisdiction or in any other district within the State of Haryana.

The complainant is a lawyer. She had got a FIR registered under Section 506 IPC at Sub-Division Gohana. The matter was pending before the Judicial Magistrate, Gohana. A transfer application was given by the complainant and the case was transferred to Sonapat in April, 2013. The case was assigned to the Court of Ms. Ankita Sharma by the Sessions Judge, Sonapat. Another application seeking transfer of the case was moved and the complainant levelled allegations against the presiding officer. The District Judge transferred the case to the Court of CJM, Sonapat in May, 2014.

The petitioner has approached this Court directly and now pleads that she does not expect fair play and justice by the Court at Sonapat as the case has been transferred twice.

The counsel for the petitioner had urged that they have moved an application under Section 91 Cr.P.C. before the Magistrate and wanted the zimnis to be produced by the Investigating Officer so that the complainant could refresh her memory. He had urged that earlier an R.T.I. application was moved and the complainant had inspected the record with the police but there were some contradictions, therefore, its copies were required but the record was not submitted by the DSP and the police officials failed to produce the documents. The counsel referred to the zimini orders Annexures P-7 and P-8. The counsel further urged that the power of attorney of Shri R.A. Tyagi, Advocate who was appearing for the accused was not available on record and he had been seeking exemption for the accused. It was urged that the trial Court was biased and it can be seen from Annexure P14-A and P14-B. Reference was also made to Annexure P15-A and P15-B. It was urged that the signatures of the accused were not there in Annexure P-14A while those can be seen in Annexure P14-B.

The petitioner seeks transfer of the case from the Court of CJM, Sonapat to any other Court for the following reasons:-

1. That the police had not been filing the documents asked for,
2. The power of attorney of the counsel representing one of the accused was not found on the file,
3. That the copies of two zimni orders appeared to be different.

I have gone through the various orders placed on record. I am of the view that no case for transfer is made out. A case cannot be transferred on the mere asking. The apprehensions in the mind of the petitioner are not well founded. The reasons on which the transfer is sought cannot be said to be reasonable. For transfer of a criminal case, there must be a reasonable apprehension on the part of a party to a case that justice will not be done. Mere allegations that the Court is biased and justice will not be done, is just not enough.

Taking into consideration the facts and the material made available on record, I am of the view that the petitioner has not been able to make out a case for transfer. The inevitable conclusion is that the petition deserves to be dismissed.

The petition is dismissed in limine.

28.07.2015
sunil

(ANITA CHAUDHRY)
JUDGE