

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-30576 of 2013
Date of Decision : 20.04.2015

Rajni

.....Petitioner

Versus

Sushil Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. Sukhdeep Parmar, Advocate
for the petitioner.

Mr. Raksh Gupta, Advocate
for the respondent.

R.P. Nagrath, J.

Prayer under Section 407 Cr.P.C. made in the instant petition is by the wife of respondent, seeking transfer of complaint case instituted against her, for offences under Sections 494 and 420 of the Indian Penal Code (IPC) pending in the court of Additional Chief Judicial Magistrate, Ambala to any other court of competent jurisdiction at District Panipat. It was stated that the complaint is dated 21.02.2012.

The petitioner alongwith her two minor children is residing with her parents at Panipat. The respondent belongs to Ambala.

I have heard learned counsel for the parties, perused the paper-book and find that in the ends of justice the complaint

case should be transferred to the competent court at Panipat.

It is pertinent to note that the petitioner filed application No. 691/2 of 2010, instituted on 21.07.2010 before the court of Chief Judicial Magistrate, Panipat under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short 'the Act of 2005'). In the said petition, the amount of ₹ 3000/- per month was granted as maintenance with effect from the date of order. The respondent was also directed to pay ₹ 5500/- towards litigation expenses and ₹ 40,000/- as compensation. It was subsequent to that order, the instant complaint was instituted in the court of Judicial Magistrate at Ambala.

Learned counsel for the respondent, vehemently, contended that the petitioner had concealed her first marriage, therefore, it necessitated the filing of criminal complaint. It was moreover contended that the respondent is ready to amicably settle the dispute and the same may also be referred to the Mediation and Conciliation Centre.

I am not inclined to accept the aforesaid contention for keeping the instant petition pending because such a prayer can always be made before the trial court. Anyhow, the aforesaid submission was also made on behalf of the respondent when the order dated 25.02.2011 (Annexure P-1) passed by the Chief Judicial Magistrate, Panipat under Section 12 of the Act of 2005 was challenged before this Court in CRM-M-16255 of 2012. It was observed by this Court in the order dated 29.01.2013 (Annexure P-

2) passed in CRM-M-16255 of 2012 that the contention was raised on behalf of the respondent that he was willing to settle the dispute and, therefore, this Court issued notice of motion in the said petition with the condition that the respondent would deposit arrears of maintenance as directed by the Chief Judicial Magistrate, Panipat and also an amount of ₹ 10,000/- towards litigation expenses except the amount of ₹ 40,000/- awarded towards compensation. It was also observed by this Court that compliance was not made by the respondent and it was then observed that the respondent had made wrong projection before this Court in order to persuade an interference in the impugned order.

In the fitness of the things, this Court would lean in favour of the wife who is having custody of two children, one from the previous husband and another child from the respondent. The plight of the petitioner in her effort to take care of herself and the minor children from the meagre amount of maintenance can be well imagined.

In view of the above, the instant petition is accepted and the criminal complaint pending between the parties in the court of Magistrate at Ambala is transferred to the court of Chief Judicial Magistrate, Panipat, where the parties are directed to appear on 15.05.2015. It shall be in the discretion of Chief Judicial Magistrate, Panipat either to keep the complaint on his own file or to entrust the same to any other competent court at Panipat. The court of Magistrate at Ambala, where the trial of the aforesaid

complaint is pending, is directed to immediately forward the record of the complaint case to the Chief Judicial Magistrate, Panipat.

Allowed in the terms indicated above.

April 20, 2015
jk

(R.P. NAGRATH)
JUDGE