

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

**Crl. Misc. No.M-29226 of 2015 (O&M)
Date of decision : 09.10.2015**

Gurmeet Singh @ Kala Maan

.....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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

**Present: Mr. D.S. Malwai, Advocate
for the petitioner.**

**Mr. Anil Chaudhary, Advocate
for the complainant.**

ANITA CHAUDHRY, J.

Though notice was not issued but the counsel for the complainant has put in appearance and has filed his power of attorney.

This is a petition under Section 407 Cr.P.C. seeking transfer of FIR No.14 dated 24.02.2012, registered under Sections 302, 307, 148, 149, 120-B IPC and Section 25 of Arms Act, P.S. Sherpur, District Sangrur, pending in the Court of Additional Sessions Judge, Sangrur.

The petitioner has pleaded that they had earlier filed a petition CRM-32758-2014 seeking transfer of the case out of the State but the counsel in his wisdom had withdrawn the petition.

Thereafter, the petitioner filed an application seeking transfer of the case before the Sessions Judge, Sangrur who has dismissed the application vide order dated 28.05.2015 (Annexure P-3).

It has been pleaded that once the trial has started, after the framing of charge, the Sessions Judge cannot make an order for transfer of the case and permission has to be taken from the Administrative Judge and the Sessions Judge can only transfer the case when any Court is abolished and new Court is created to provide work to the newly created Court. It was pleaded that the Sessions Judge has dismissed the application and the order could not be passed by the Sessions Judge and the Sessions Judge should have returned the application and should have directed the parties to approach the High Court.

In para no. 10 of the petition, the petitioner had pleaded that the complainant side had engaged a counsel and as per their information, the Presiding Officer forms an opinion in favour of parties who are represented by that lawyer and if they are given time, they can give details of such cases and the petitioner had no faith in the Court and the case should be transferred to another Court.

Heard.

An application had been moved by the petitioner (accused) seeking transfer of the trial which is at the last stage. The petitioner had pleaded before the Court that the trial was pending in the Court of Shri Varinder Aggarwal, Additional Sessions Judge, Sangrur and it was transferred to the Court of Shri B.B.S. Teji, Additional Sessions Judge, Sangrur, after the transfer of Shri Varinder Aggarwal, Additional Sessions Judge, Sangrur. It was further pleaded that they had filed a transfer application in the High Court on the ground that Senior Police Officers of the district Sangrur were revengeful towards the accused and had threatened that they would get the accused convicted from the Courts in Punjab. It was pleaded that the Presiding Officer had remained posted in the Office of Advocate General Punjab and now the Senior Police Officials are threatening the accused that they have got relations with the Presiding Officer and they would get them convicted and he has apprehensions that he would not get justice, therefore, the case should be transferred to any other Court.

The record of the previous petitions has been taken out. It is found that five persons who were accused in this FIR had filed a petition (CRM-M-32758-2014) seeking transfer of the case out of the State of Punjab. That petition was filed in September, 2014. Notice of CRM-M-32758-2014 had been issued

and the State had filed its reply. During the course of the proceedings, an application (CRM-39326-2014) had been received for withdrawal of the petition by one of the accused, which was allowed on 05.01.2015. The counsel representing the petitioners, after arguing the case for some time had withdrawn the petition on 31.03.2015. At that point of time, the case was pending in the Court of Shri S.K. Sachdeva, Additional Sessions Judge, Sangrur. According to the petitioner, the Officer was transferred and the case was assigned to another Additional Sessions Judge.

I find that the petition (CRM-19071-2015) was filed by three accused facing trial seeking transfer of the case from the Court of Shri B.B.S. Teji, Additional Sessions Judge to any other Court on 28.04.2015. The order challenged in that petition was dated 28.05.2015, vide which the Sessions Judge had dismissed the application. That petition was withdrawn on 30.06.2015. The order reads as under:-

“Learned counsel for the petitioners after arguing for sometime intends to withdraw this petition.

Dismissed as withdrawn.”

One of the accused has now filed this petition challenging the same order which has been assailed vide CRM-19071-2015. The petitioner had withdrawn the petition and has filed a petition seeking transfer of the case. When the first

petition was withdrawn, no liberty was granted to institute another petition.

The counsel representing the respondent had informed that the case is at its final stages and even arguments had been addressed.

Even otherwise cases cannot be and should not be transferred on mere apprehensions. Transfer of a case from one Court to another has serious effects on the Judge from whom the case was sought to be transferred. Mere presumptions or possible assumptions are not sufficient for transfer of a case. A case can be transferred only on good and sufficient grounds. The petitioner has not made out any sufficient ground for transfer. The request for transfer is bereft of merits.

The petition is dismissed.

09.10.2015
sunil

(ANITA CHAUDHRY)
JUDGE