

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

CRM-M No.29869 of 2015

Date of decision : 11.09.2015

Preeti Rani @ Shimpy

...Petitioner

Versus

Pankaj Kumar

...Respondent

CRM-M No.29870 of 2015

Date of decision : 11.09.2015

Preeti Rani @ Shimpy

...Petitioner

Versus

Pankaj Kumar and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Aseem Kataria, Advocate for the petitioners.

JITENDRA CHAUHAN, J. (Oral)

This judgment shall dispose of both the aforesaid petitions.

2. The Transfer petition i.e.CRM-M No.29869 of 2015 has been filed under Section 407 read with Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') for transferring of case i.e.Case type: MNT-

125/98/2014, date of registration 21.11.2014 registered under Section 125 Cr.P.C., filed by the petitioner from Fazilka to the Court of competent jurisdiction at Malout, whereas, the second Transfer petition i.e.CRM-M No.29870 of 2015 is for transfer of the complaint i.e. COMA/42/2014 date of registration 28.11.2014 registered under Section 12 of Protection of Women from Domestic Violence Act, 2005, filed by the petitioner from Fazilka to the Court of competent jurisdiction at Malout.

3. It is contended that the petitioner is living with her four years old daughter at the parental home at Malout, District Fazilka. There is nobody to accompany her to attend the court at Fazilka as her parents are old and infirm. The respondent is not paying anything for their maintenance. In these circumstances, it is very difficult for the petitioner to attend the Court at Fazilka.

4. Heard.

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5. Section 126 of the Code of Criminal Procedure reads as under:-

“Section 126 Cr.P.C.. Procedure.

(1) Proceedings under Section 125 may be taken against any person in any district-

(a) where he is, or

(b) where he or his wife, resides, or

(c) where he last resided with his wife, or as the case

may be, with the mother of the illegitimate child.”

6. The territorial jurisdiction is to be determined on the date of filing the petition. Once the petitioner had herself opted to file the petition at one place, her subsequent change of residence from that place to another is not a bonafide ground to transfer the case except there is very strong circumstance. In this case it is alleged that the petitioner during the pendency of application under Section 125 Cr.P.C. started residing with her sister at Malout. The trial Magistrate may consider to grant travelling expenses for the date her presence is essential on the date of hearing along with maintenance pendente lite. The trial court will ensure that her application for granting of litigation expenses along with maintenance allowance is decided at the earliest and further ensure that payment is made regularly in the petition under Section 125 Cr.P.C. This petition deserves to be dismissed.

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7. In Application under the Domestic Violence Act it is alleged that the marriage took place, the parties resided together and domestic violence was committed at Fazilka, so, the application was filed at Fazilka by the present petitioner.

8. Keeping in view the above facts and observations, the case under the Domestic Violence Act also cannot be transferred to Malout.

9. In view of the fact that the aforesaid cases i.e. Case type: MNT-125/98/2014 and complaint No. COMA/42/2014 have been filed by the petitioner herself, and her interest has been well protected by the said observation of this Court, both the petitions for transfer of cases from Fazilka to Malout, are, hereby, dismissed.

11.09.2015

ashok

(JITENDRA CHAUHAN)
JUDGE