

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

**CRM M-31311 of 2015 (O&M)
Decided on : 18.12.2015.**

Mukesh Kumari

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

**Present : Mr. Narender Kaajla, Advocate,
for the petitioner.**

Mr. Hitesh Pandit, Addl. AG, Haryana.

**Mr. Sanjay Vashishth, Advocate,
for respondents No.2 & 3.**

**JITENDRA CHAUHAN, J.
CRM No. 41011 of 2015**

The application is allowed as prayed for. Annexures
P-3 to P-7 are taken on record subject to all just exceptions.

CRM No. 37218 of 2015

The application is allowed. Reply filed on behalf of
respondent No.2 is taken on record subject to all just exceptions.

Main case

By filing this petition, under Section 407 read with
Section 482 Cr.P.C, the petitioner is seeking transfer of criminal case
titled as “State of Haryana vs. Satish Kumar and another” pending
before the Court of Sh. Rakesh Kumar, Judicial Magistrate Ist Class,

Jind arising out of FIR No.166 dated 20.7.2015 under Sections 406, 498-A read with Section 34 IPC registered at Police Station Julana, District Jind, to the competent Court at Hisar.

The petitioner made written complaint to the Superintendent of Police, Hisar. The SP, Hisar transferred the complaint to the Superintendent of Police, Jind. Thereupon, the present FIR was registered at Jind.

It is contended on behalf of the petitioner that the petitioner is residing with her sister at village Mirjapur Tehsil and District Hisar. She has no source of income and is unable to maintain herself. It is not possible for the petitioner to travel alone on each and every date of hearing in the absence of any male member.

On the other hand, it is contended on behalf of respondents No.2 and 3 that the children born out of their wedlock have been studying and residing at Jind. The petitioner moved the written complaint to the Superintendent of Police, Hisar, on enquiry, it was found that the petitioner was a resident of village Brahmanwas, District Jind, accordingly, the complaint was transferred to District Jind vide report Annexure R-2/A. In order to seek the transfer of the present case, the petitioner has been deliberately residing with her sister at Hisar.

The trial of present case is going on at Jind. Vide report Annexure R-2/A, prepared by the Superintendent of Police, Hisar, the petitioner is a resident of village Brahmanwas, District Jind.

Therefore, the complaint was marked to Police authorities at Jind. The children have also been residing at Jind. The petitioner is the complainant in the present case. Being a state case, the presence of the petitioner is not required on each and every date of hearing as the prosecution in State case is to be conducted by the Public Prosecutor. The petitioner is required to attend the Court only for the purpose of recording of the evidence on a certain date. This Court is of the opinion that the trial of the case cannot be shifted on the sole ground that the complainant happens to reside at particular place. For such an eventuality, she can be compensated in terms of money. Consequently, the present petition is dismissed. However, the husband-respondent No.2 shall pay Rs.1000/- to the petitioner for attending the Court proceedings on each and every date of hearing when her presence is required by the Court.

18.12.2015.
SN

(JITENDRA CHAUHAN)
JUDGE