

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

**CRM-M-33396-2015 (O&M)  
Date of decision : 02.12.2015**

**Pankaj Arora**

**.....Petitioner(s)**

**Versus**

**State of Punjab and another**

**...Respondent(s)**

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Sunil Chadha, Senior Advocate with  
Ms. Arti Kaur, Advocate,  
for the petitioner.

Mr. K.S. Aulakh, AAG, Punjab.

Mr. Atul Goyal, Advocate  
for respondent No.2.

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**ANITA CHAUDHRY, J.**

This petition has been filed under Section 482 Cr.P.C. seeking quashing of the order dated 21.07.2015 (Annexure P4), vide which the Sessions Judge, Ludhiana transferred the trial in case FIR No.192 dated 23.08.2014, registration under Sections 376(2), 201 & 506 IPC and Section 3, 4 & 6 of the Protection of Children from Sexual Offences Act, 2012, which was pending in the Court of Shri Sukhdev Singh, Additional Sessions Judge, Ludhiana to the Court of Ms. Priya Sood, Additional Sessions Judge, Ludhiana. The application of transfer had been made by the complainant.

A case had been registered against the petitioner under the aforesaid Sections and challan had been presented and the trial was being conducted by the Additional Sessions Judge, Ludhiana. The father of the prosecutrix moved an application on 17.07.2015 seeking transfer of the case to the Court presided over by some lady Judicial Officer. Accordingly, the Additional Sessions Judge, Ludhiana noted that a special Court had been constituted in District Ludhiana to deal with such cases and therefore, he ordered the file to be put up before District and Sessions Judge, Ludhiana for proper orders. Parties were directed to appear before him on 21.07.2015.

The reference was put up before the Sessions Judge, Ludhiana on 21.07.2015 and in the presence of both the sides it passed a detailed order stating that exclusive Court of Ms. Priya Sood, Additional Sessions Judge, Ludhiana had been set up for fast tracking cases of heinous crime against women. It withdrew the case from the Court of Additional Sessions Judge and transferred the case to the Court of Ms. Priya Sood, Additional Sessions Judge, Ludhiana. The parties had appeared and the proceedings had restarted when this petition had been filed assailing the order passed by the Sessions Judge, Ludhiana.

Lengthy submissions were made by both the sides and both the counsels sought support from a number of judgments but I feel that it would not be necessary to even refer to them for the reason given herein below.

The counsel for the petitioner had relied upon a notification Annexure P-1, according to which the government of Punjab vide Notification dated 16.11.2011, bearing No.S.O.95/C.A.4/2006/S.25/2011 had specified the Court of Ist Additional District and Sessions Judge in the State of Punjab to be the Children's Court. The submission was that a new Act had come and therefore, only the 1<sup>st</sup> Additional District & Sessions Judge could deal with the cases and the impugned order made by the Sessions Judge, Ludhiana was improper and the case could not have been transferred and only the designated Court of ADJ I<sup>st</sup> in the District could deal with the case.

The submission on the other hand was that Special Courts had been set up for both the States of Haryana and Punjab and directions had been issued by the Supreme Court from time to time and the cases were ordered to be assigned to lady Judges wherever it was possible to have a child friendly Court and the High Court had passed Administrative orders and Special Courts had been set up for dealing with crime against women and no prejudice would be caused to the petitioner.

The issue raised by the petitioner was that the administrative instructions issued by the High Court could not over-ride the notification issued by the government of Punjab.

The controversy sought to be raised by the petitioner is without merit. The Punjab Government vide Notification dated 16.11.2011 had been superseded the notification by another notification made on 10<sup>th</sup> September, 2013 which reads as under:-

**GOVERNMENT OF PUNJAB**

DEPARTMENT OF HOME AFFAIRS AND JUSTICE

**NOTIFICATION**

The 10<sup>th</sup> September, 2013

No.S.O. 78/C.A.4/2006/S.25/2013.-In supersession of the Government of Punjab, Department of Home Affairs and Justice, Notification No.S.O.,95/C.A.4/2006/S.25/2011, dated the 16<sup>th</sup> November, 2011, and in exercise of the powers conferred by section 25 of the Commissions for Protection of Child Rights Act, 2005 (Central Act No.4 of 2006), and all other powers enabling him in this behalf, the Governor of Punjab with consultation of the Chief Justice of the High Court of Punjab and Haryana, is pleased to specify the courts of all the Sessions Judges and Additional Sessions Judges, at each district headquarter in the State of Punjab (except the Additional Sessions Judge (Adhoc), Fast Track Courts), to be the Children's courts, for providing speedy trial of offences against children or violation of child rights under the said Act, for the area falling within their respective jurisdiction;

AND further the children's Courts so specified above under the aforesaid Commissions for Protection of Child Rights Act, 2005, shall be deemed to be the Special Courts, in pursuance of the provisions of the proviso to sub-section(1) of section 28 of the Protection of Children from Sexual Offences Act, 2012 (Central Act No.32 of 2012), to try the offences under the Act.

In view of the above notification, all the Sessions Judges and Additional Sessions Judges in each district headquarters in the State of Punjab can now try cases under the POCSO Act. Similar is the position for the State of Haryana. There is a notification in this regard issued by the Haryana Government on 29.05.2013. The High Court had ordered setting up Special Courts for trial of heinous crime against women. Therefore, the issues raised in this petition are totally bereft of merit and the petition is dismissed.

02.12.2015

sunil

**(ANITA CHAUDHRY)**  
**JUDGE**