

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

**Criminal Misc. No. M-35501 of 2014 (O&M)
Date of Decision: 15.07.2015**

Ekta Sharma

...Petitioner(s)

Versus

State of Punjab & another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. *Whether reporters of local newspapers may be allowed to see judgment?*
2. *To be referred to reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

Present:- Mr. D.S. Pheruman, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Karan Chaudhary, Advocate for respondent no.2.

HARI PAL VERMA J.(Oral)

Petitioner namely Ekta Sharma wife of Rajan Sharma has filed the present petition under Sections 407 CrPC read with Section 482 CrPC seeking transfer of Criminal Complaint No.10 dated 3.3.2014 under Sections 498A/506 IPC P.S. City Batala titled as *Ekta Sharma Vs. Rajan Sharma & others*, pending in the Court of Smt. Amita Singh, SDJM, Batala to some other Court at Amritsar.

Briefly stated, the facts of the case are that the petitioner was married with respondent no.2 on 24.5.2009 and out of this wedlock, a daughter was born on 24.9.2010. However, on account of constrained relations between the parties, the petitioner filed a complaint under

Sections 498A and 506 IPC against respondent no.2 which is pending in the Court of Smt. Amit Singh, SDJM, Batala.

The petitioner has approached this Court for transfer of the aforesaid complaint to some other Court at Amritsar on the ground that at the time of filing the complaint, her brother Shorab was unemployed, but now, he has opened a karyana shop at Ram Tirath Road, New Colony, Jawahar Mandi, Amritsar and the petitioner along with her daughter has also shifted to Amritsar in March, 2014, during the pendency of the complaint. Presently, the petitioner along with her father, mother and brother as well as minor daughter are residing at Amritsar. Even her minor daughter has been got admitted in a Nursery school namely Children Light House, G.T. Road, Putli Ghar, near City Light Cinema, Amritsar. In this manner, the petitioner has to take care of her minor daughter to and fro journey to the school. It has also been pleaded that respondent no.2 is threatening her to withdraw the criminal case against him, for which, the petitioner has submitted a complaint to SSP, Police District Batala on 22.9.2014 as well as to DGP, Punjab.

On notice of motion having been issued, Mr. Karan Chaudhary, Advocate has put in appearance on behalf of respondent no.2 and has vehemently contended that filing of the present application seeking transfer of case from Batala to Amritsar is motivated. The petitioner has not approached this Court with clean hands inasmuch as one FIR No.77 dated 23.5.2014 under Section 306 IPC, Police Station City Batala has been registered against the petitioner. It is because of the said reason, the petitioner has intentionally shifted to Amritsar. He further submitted that in case the present transfer application is allowed, the

respondent no.2 will have to undertake journey from Gurdaspur to Amritsar, whereas he is otherwise working at Gurdaspur.

I have heard learned counsel for the parties.

There is hardly any denial to the fact that the petitioner along with her daughter has left Batala and shifted to Amritsar. She has a young daughter of 4-5 years, who is admitted in a school at Amritsar and the petitioner is required to take care of her. In case the proceedings before the trial Court at Batala are allowed to continue, the minor daughter would suffer adversely. Moreover, Hon'ble the Apex Court has time and again observed that the matrimonial proceedings are usually held at a place where the woman is residing, unless there are oblique/vested reasons for such transfer. In the case of **Smt. Paushi v. Akash Katoch 2005 (11) SCC 556**, the Hon'ble Apex Court in more or less similar facts has allowed transfer the divorce petition.

In view of the above, the present petition is allowed and Criminal Complaint No.10 dated 3.3.2014 under Sections 498-A/506 IPC, Police Station City Batala titled as *Ekta Sharma v. Rajan Sharma & others* pending in the Court of Smt. Amita Singh, SDJM, Batala is ordered to be transferred to Amritsar. Learned District and Sessions Judge, Amritsar is at liberty to transfer the case to the Court having jurisdiction to dispose of the matter.

July 15, 2015
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(HARI PAL VERMA)
JUDGE