

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Crl. Misc. No. M-39147 of 2014 (O&M)
Date of decision : 05.02.2015

Sandeep Ahluwalia

....Petitioner

versus

State of Punjab and others

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Rai, Sr. Advocate with
Mr. D.S. Brar, Advocate
for the petitioner

Mr. Daljeet Singh Virk, AAG, Punjab

RITU BAHRI , J. (Oral)

Prayer in this petition is for quashing of order dated 10.11.2014 (P-5) passed by the learned Chief Judicial Magistrate, whereby she has withdrawn the case file/trial of State of Kuljinder Singh pertaining to F.I.R No. 208 dated 16.09.2009 under Sections 420/467/468/471/120-B IPC, registered at P.S. Sadar, Rajpura from the Court of Mrs. Daljit Kaur, JMIC Rajpura and transferred to the Court of Ms. Aman Sharma, JMIC, Patiala for disposal, without issuing any notice to the petitioner as well as to State, which is against the law.

The above said F.I.R was got registered by the petitioner and the accused-respondents are facing trial and the trial has concluded and even the arguments were partly heard on 05.11.2014 and the case was adjourned to 12.11.2014. Thereafter, on an application moved by accused-respondent Nos. 2 to 4 seeking transfer of the case from the Court of Mrs.

Daljit Kaur, JMIC Rajpura to any other Court under the territorial jurisdiction of the Court alleging therein that the complainant/petitioner is an influential person of Rajpura running a large industry and educational institutions at Rajpura having high influence and links.

Mr. R.S. Rai, learned senior counsel being assisted by Mr. D.S. Brar, Advocate has referred to order dated 30.10.2014 (P-1) wherein the case was adjourned to 05.11.2014 for arguments and on 05.11.2014 (P-2), it has been clearly mentioned that written submissions have been filed by the defence counsel, arguments were partly heard and the case was adjourned for 12.11.2014 for remaining arguments. In the application filed by the accused, it was submitted that since the complainant/petitioner is an influential person, the accused feared that their contentions will not be recorded by the learned Judge being under the influence of the complainant and further advised his counsel to submit the written arguments.

However, a persual of order dated 05.11.2014 P-2 clearly shows that after accepting the written submissions filed by the defence counsel, it was written in the order that the arguments were partly heard and the case is adjourned to 12.11.2014 for remaining arguments. The counsel instead of appearing for further arguments, makes an application for transfer of the case, which was entertained on the same and the trial was transferred to the Court of Ms. Aman Sharma, JMIC, Patiala for disposal, without issuing any notice to the petitioner

as well as to State, vide order dated 10.11.2014.

The counsel for the accused had an opportunity to address arguments, but he filed an application seeking transfer of the case, and this was not sufficient ground to seek transfer of the case.

In view of the above factual position, order dated 10.11.2014 (P-5) passed by the learned Chief Judicial Magistrate is set aside.

Accordingly, the criminal misc. petition stands allowed.

05.02.2015
G Arora

(RITU BAHRI)
JUDGE