

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-5836 of 2015

.....

Date of decision:19.11.2015

Gagandeep Kaur and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

Coram : Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Gurcharan Singh, Advocate for the petitioners.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent-State.

Mr. S.P.S. Sidhu, Advocate for respondent No.2.

.....

Inderjit Singh, J.

This petition has been filed under Section 407 Cr.P.C. for transfer of criminal case titled as “State Vs. Gagandeep Kaur and others” - FIR No.81 dated 13.7.2014 registered for the offences under Sections 406, 495 and 120-B IPC at Police Station Mallanwala, District Ferozepur, pending in the Court of learned Sub Divisional Judicial Magistrate, Zira to the Court of competent criminal jurisdiction at Kapurthala in the interest of justice. It has been further prayed that further proceedings before the learned Sub Divisional Judicial Magistrate, Zira pending in the above case may be stayed during the pendency of this petition.

Notice of motion was issued in this case.

Ms. Shivali, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and Mr. S.P.S. Sidhu, learned Advocate has appeared on behalf of respondent No.2 and contested this petition.

I have heard learned counsel for the parties and have gone through the record.

As argued, the FIR was got registered on the statement of husband, against his divorced wife, widowed mother-in-law and brother-in-law. Admittedly, respondent No.2 is working in Greece. Learned counsel for the petitioners stated that Gagandeep Kaur wife has 2½ years old child and she feels inconvenience to attend the Court at Zira and the same be transferred to Kapurthala. Learned counsel for the petitioners also placed reliance on the judgment of Hon'ble Supreme Court in Neelam Kanwar v. Devinder Singh Kanwar, 2000 (10) SCC 589, in which it is held that convenience of lady is to be preferred and transfer to the place where the lady was residing would be preferred by the Court unless special reasons were shown not to do so. I have gone through the law laid down in this judgment, which fully applies to the facts of the case. Further, at the time of arguments, learned counsel for the petitioners also stated that earlier petition filed under Section 11 of the Hindu Marriage Act was also transferred from Ferozepur to Kapurthala by this Court.

Further another petition filed under Section 12 of the Protection of Women under Domestic Violence Act is also pending at Kapurthala.

Keeping in view the facts and circumstances of the present case and in view of the law on which reliance has been placed above, I find merit in the present petition and the same is accepted. The criminal case titled as “State Vs. Gagandeep Kaur and others” pending before learned Sub Divisional Judicial Magistrate, Zira is transferred to the Court of competent jurisdiction at Kapurthala.

The parties are directed to appear before learned Sessions Judge, Kapurthala on 30.11.2015, who will entrust the case to any Court of competent jurisdiction at Kapurthala, for disposal as per law.

The learned Sub Divisional Judicial Magistrate, Zira is directed to send the file of the above case to the learned Sessions Judge, Kapurthala well before the date fixed.

November 19, 2015.

(Inderjit Singh)
Judge

hsp