

CRM-M-21099-2015

Date of Decision : 16.05.2016

Resham Singh

.....Petitioner

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**Present:** Mr. S.S. Rangi, Advocate
for the petitioner.

Ms. Harpreet Kaur Athwal, DAG, Punjab.

M.M.S. BEDI, JUDGE (ORAL)

The petitioner is facing trial at Pathankot in FIR No. 42 dated 30.05.2013 on the allegation of having murdered one Jagir Singh and another trial at Jalandhar in FIR No. 10 dated 18.01.2014 for having committed murder of Sushil Joshi and Mohinder Singh.

This revision petition under section 407 Cr.P.C. is for transfer of Session Case titled State versus Resham Singh and another arising out of FIR No. 42 dated 30.05.2013 under Section 302, 364, 364-A, 120-B, 34 IPC, Police Station Division No. 2, Pathankot pending in the Court of Sh. B.S. Sandhu, Sessions Judge, Pathankot to the Court of Sh. A.V. Vashishtha, Additional Sessions Judge, Jalandhar where the petitioner is already facing trial in case FIR No. 10 dated 18.01.2014 under Section 302 read with Section 25, 27 of the Arms Act registered at Police Station Bhargo Camp Jalandhar on the allegations of murder of

Sushil Joshi and Mohinder Singh.

Learned counsel for the petitioner has submitted that the case at Pathankot was originally registered at the instance of the petitioner on the allegation that his brother Jagir Singh had met with an accident but later on, he was involved as an accused on the basis of the information received during the course of investigation in FIR No. 10 of 2014 under Section 302 IPC regarding murder of Sushil Joshi and Mohinder Singh as the petitioner had used the said persons for killing Jagir Singh with a motive to get the benefit of insurance policy on the life of Jagir Singh.

The main ground of the learned counsel for the petitioner is that the statements of all the prosecution witnesses at Pathankot have been recorded and that there are eight common witnesses in both the trials i.e. at Pathankot and Jalandhar. It has been vehemently urged by counsel for the petitioner that eight common witnesses have already been examined at Pathankot. They have also been cross-examined by counsel for the petitioner at Pathankot. Counsel submits that in case, the trial at Pathankot is not transferred to Jalandhar, the petitioner will be required to cross-examine the said eight witnesses, disclosing the defence, which may prejudice the defence of the petitioner in the trial at Jalandhar.

I have carefully considered the contentions of learned counsel for the petitioner and I am of the opinion that eight common witnesses in both the cases have already been examined in the case at

Pathankot. The said witnesses would be required to be cross-examined in different context pertaining to the allegations in the murder case at Jalandhar. If seen practically, on the basis of the defence plea already taken by the petitioner at Pathankot, the prosecution agency is not in a position to improve the case at Jalandhar as the challan stands already presented. Any improvement made by the prosecution agency at Jalandhar can be confronted to the witnesses to impeach their credibility during trial at Jalandhar.

The defence put forth by the petitioner in case at Pathankot stands already disclosed. Nature of the allegations in criminal case at Pathankot are separate than in the trial at Jalandhar. The contention of learned counsel for the petitioner that some defence would be disclosed, in case, the trial is not transferred at one place, does not appeal warranting the transfer of one trial to another place. Besides this, case at Pathankot is almost over as it is fixed for defence evidence whereas the double murder case at Jalandhar is at initial stage. There does not appear to be any ground to transfer the case from Pathankot to Jalandhar especially when petitioner has been granted the concession of bail in both the cases. It will also not be convenient for the petitioner now to travel to Jalandhar to pursue his case.

Learned counsel for the petitioner submits that the conviction or acquittal of the petitioner in case at Pathankot might prejudice his right of acquittal at Jalandhar. I have considered this contention carefully. The Courts at Pathankot and Jalandhar are

required to appreciate the evidence produced by the prosecution and the defence evidence, if any, produced by the accused, while adjudication of the respective trial to determine the culpability of an accused. The decision rendered by another Court at another place in context of different allegations can not be expected to influence the mind of a well experienced Presiding Officer of the Court. No ground is made out to transfer the trial from Pathankot to Jalandhar.

Dismissed.

(M.M.S. BEDI)
JUDGE

16.05.2016
Neha