

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

CRM-M-25072 of 2016 (O&M)

Date of decision: 25.07.2016

Rajiv Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. S.S. Gill, Advocate for the petitioner.

Jitendra Chauhan, J. (Oral)

The present petition under Section 407 of the Code of Criminal Procedure (for short 'Cr.P.C.'), has been filed seeking transfer of the case titled “Rajiv Kumar Vs. State”, pending adjudication before the Special Court, Patiala, to the other competent Court at Patiala.

It is contended that the petitioner is facing trial for a long time and is appearing on each and every hearing in the above said case. The prosecution evidence has been completed and after recording of the statement under Section 313 Cr.P.C., the petitioner examined three witnesses in his defence and then closed his evidence. He further states that after closing of prosecution evidence, the Presiding Officer has openly declared that he would convict the

accused and he has not given an opportunity to lead evidence which caused great prejudice to the case of the petitioner. In support of his contentions, the learned counsel cites **Jai Singh** Vs. **State of Rajasthan**, 1987(3) Crimes 591, **Budhya and others** Vs. **State of U.P.**, 1990 CriLJ 64 and **Adam Basha** Vs. **State of Karnataka**, 1975 CriLJ 744.

Heard.

After perusing the case file, this Court is of the considered opinion that there is no strong ground to transfer the case to any other competent Court. After recording the statement of petitioner/accused under Section 313 Cr.P.C., the petitioner had examined three witnesses in his defence evidence and then he closed his evidence. On 27.05.2016, the case was adjourned for arguments on 30.05.2016. On 30.05.2016, the petitioner sought adjournment and thereafter, on the request of petitioner, the case was adjourned every time till 03.06.2016. On 03.06.2016, the petitioner moved an application for exemption from personal appearance and the case was adjourned to 06.06.2016 and then again to 02.07.2016. The petitioner moved an application to produce some more witnesses in his defence and the same was allowed on 04.07.2016. Thereafter, instead of examining the defence witnesses, the petitioner filed an application before the learned Sessions Judge to transfer the case to some other competent Court and the same was dismissed, by virtue of order

dated 15.07.2016. Now, the petitioner has preferred the present petition which seems to be unjustified and baseless. The petitioner has already availed numerous opportunities to lead defence evidence. The act of the petitioner shows that he is trying to prolong the matter. Therefore, at this stage, the transfer of the petition would unnecessarily cause delay in the conclusion of the litigation. Moreover, cases cannot be transferred at the whim and fancies of the accused. Learned Sessions Judge has rightly observed that there are no allegations that the Presiding Officer has been known to the petitioner or that he has some prejudice against him. The petitioner seems to be unnecessarily apprehensive. The case law cited by the learned counsel is distinguishable on facts and will not apply in the present case.

In view of the above, the present petition being without any merit is dismissed.

25.07.2016

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(JITENDRA CHAUHAN)
JUDGE