

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-33228 of 2016

.....

Date of decision:20.9.2016

Des Raj and another

.....Petitioners

v.

State of Haryana and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sanjeev Kumar Bawa, Advocate for the petitioners.

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Inderjit Singh, J.

This petition has been filed under Section 407 read with Section 482 Cr.P.C. praying for quashing of the order dated 1.9.2016 passed by learned District Judge, Chandigarh, vide which the criminal transfer application No.21 of 2016 filed by the petitioner has been dismissed in arbitrary and illegal manner, non-speaking in nature and to transfer the Criminal Appeal No.418 of 2014 titled as “Des Raj Versus State of Haryana”, Criminal Appeal No.199 of 2014 titled as “Ravi Kumar Versus State of Haryana and another”, Criminal Appeal No.265 of 2016 titled as “Gaurav Bansal Versus State of Haryana” filed in FIR No.235 dated 3.12.2008 for the offences under Sections 148, 323, 435, 379, 452, 506 and 149 IPC and Sections 25 and 27 of the Arms Act at Police Station Bhattu Kalan, District Fatehabad, be transferred from the Court where these are

pending to some other Court of competent jurisdiction.

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

From the record, it is clear that earlier these appeals were pending before Sessions Court, Fatehabad and then same were transferred by this Court as per the orders passed by this Court on 6.10.2014 in Cr. Misc. No.M-30699 of 2014 etc. In the reply in that petition, it has been stated that the appeal filed by Surender alias Sunder was already transferred to the Court of Sessions Judge, Chandigarh, while accepting Criminal Misc. No.M-41697 of 2013. Now an application has been filed by Des Raj and Suresh Kumar before the Sessions Court for transfer of the above stated appeals pending in the Court of Shri R.K. Jain, learned Additional Sessions Judge, Chandigarh to another Court of Additional Sessions Judge. The grievance of the petitioners is that firstly the appeal has been transferred from the Court of Mrs. Roopam, the then learned Additional Sessions Judge, Chandigarh to the Court of Shri R.K. Jain, learned Additional Sessions Judge, Chandigarh by wrongly stating that another appeal is pending before that Court. The second ground is that the opposite party started proclaiming that he is having very close relations with the Presiding Officer and their appeals will be dismissed under all circumstances and they will be sent to Burail Jail directly and will not return to their homes. The petitioners have doubt in their mind that they would not get justice from the Court of learned Additional Sessions Judge, Chandigarh.

From the record, I find that as argued the cases have been

transferred from the Court of Smt. Roopam about two years back and the present petitioners have not raised any objection that these have been wrongly sent or no appeal was pending at that time in the Court of Shri R.K. Jain, Additional Sessions Judge, Chandigarh. So, now when the appeals are stated to be fixed for arguments, this petition has been filed just to delay the disposal of the appeals. This has also been held by the learned District Judge, Chandigarh in the impugned order dated 1.9.2016. Further more, no particulars of any type have been mentioned as to how the complainant has relations with the officer. No particulars of any type have been mentioned as to where the other party proclaimed, in whose presence and what was the occasion. No particulars regarding date, month or year have been mentioned as to when the other party so proclaimed. The doubt in the mind of the petitioners is without any basis and ground. It looks that the petition has been filed only to delay the disposal of the appeals. No ground is made out for transfer of these appeals from the Court where these are pending to the Court of any other Additional Sessions Judge. The order passed by the learned District Judge, Chandigarh is correct as per law and no illegality has been committed by the Court and the same is upheld.

Finding no merit in the present petition, the same is dismissed.

September 20, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No