

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

Cr. Misc. M 39223 of 2012
Date of decision:- 18.2.2016

Jagmohan Singh

Petitioner

vs.

State of Punjab and anr

Respondents

Present: Mr. Vivek Salathia, Advocate.
Mr. Jashanpreet Singh, AAG, Punjab.
Mr. LM Gulati, Advocate.

M.M.S.BEDI,J.

The petitioner is an accused in a case registered at the instance of respondent No.2 Saravpreet Kaur, wife of an Advocate Gagan Bhatia, who was allegedly assaulted by the petitioner in the year 2012. The petitioner is brother of respondent No.2 Saravpreet Kaur.

Counsel for the petitioner has filed this petition for transfer of the criminal trial against him from Amritsar Sessions Division to another court of competent jurisdiction, out side the Amritsar District alleging that offence u/s 307 IPC is not made out as per the supplementary challan submitted by the investigating agency after the commitment of original challan u/s 307 IPC regarding the same incident. Counsel has further submitted that on account of injured being an Advocate, a battery of Advocates appeared against the petitioner in the court and influenced the adjudication of the matter by the Presiding Officer. In order to substantiate his contention he has drawn my attention to the order passed by a Co-ordinate Bench of this court on 11.10.2012 in CRM M 31340 of 2012 (Annexure P-5) wherein a direction had been issued by this court to the Presiding Officer to proceed with the matter in a legal manner i.e. passing

an order accepting or rejecting the bail bonds, uninfluenced by any extraneous matter. The Presiding Officer Mr. Kishore Kumar, Additional Sessions Judge, Amritsar passed an order Annexure P-6 declining bail to the petitioner solely on the ground that he had no directions for dealing with the matter u/s 307 IPC as supplementary challan had only been filed u/s 324/323 IPC. The order on the face of it appears to be illegal and improper. Be that as it may, the petitioner was ultimately released on bail by this court vide order dated 15.1.2013.

On asking of the court, it has been informed that at present, the petitioner is facing trial for offence u/s 307 IPC before the Court of Ms. Preeti Sahni, Additional Sessions Judge, Amritsar. Charges have been framed on 29.11.2012.

Counsel for the petitioner has submitted that on account of husband of complainant being an Advocate, the petitioner has got an apprehension that the Presiding Officer will be influenced and pressurized by the Advocates.

I have considered the facts and circumstances of the case. As the proceedings against the petitioner stands stayed at this stage and the petitioner is being represented by an Advocate, capable enough to defend the case of the petitioner, merely on the basis of apprehension that an Advocate will be able to influence the adjudication of a criminal trial, is not acceptable at this stage without there being any indicative circumstances in that aspect.

The present petition for transfer of trial is **dismissed** at this stage. The order staying the proceedings is hereby vacated. It is expected that the Advocates, who are officers of the court, will not indulge in any overt act, interfering in the proceedings. In case of any apparent interference by any Advocate or in case of any apprehension not getting

justice, it will be open to the petitioner to report the matter to his court and approach this court for transfer of the case again. It is expected that the Presiding Officer will conduct the trial in accordance with law.

February 18 ,2016
TSM

(M.M.S.BEDI)
JUDGE