

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

CRM-M-41832 of 2014

Date of Decision: August 04, 2016

Media Content & Communications Services
(India) Pvt. Ltd.

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Girish Agnihotri, Senior Advocate
with Mr. Arvind Seth, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

Mr. S.K. Garg Narwana, Senior Advocate
Mr. Naveen Gupta, Advocate
for respondent No.2.

FATEH DEEP SINGH, J.

In this petition preferred under Section 407 Cr.P.C the petitioner M/s Media Content and Communications Services Pvt. Ltd. through its Executive Legal Media Content and Communications Services Pvt. Ltd have made a prayer whereby they have sought to transfer the complaint detailed therein preferred under Sections 499,500,34 IPC pending in the Court of learned Chief Judicial Magistrate, Hisar to any other district.

The brief facts of this lis is as follows: _

A criminal complaint No.1061 of 2010 for commission of offence under Sections 499,500,34 IPC was filed by the complainant

Baljit Singh against Ganesh Thakur, Anand Lathwal and TV Star News Channel on the allegations that the complainant is a devotee of Sant Rampal Dass, who is running a trust under the name of “ Bandi Chhor, Bhakti-Mukti Trust” and which has established an Ashram publicly known as “Satlokh Ashram Kantha” Village Karontha, District Rohtak. It is alleged that accused in their news channel on 7.3.2010 around 10.40 p.m have levelled certain imputations against Sant Rampal of Satlokh Ashram repeatedly which was defamatory imputations to slur him. It is on the basis of preliminary evidence, the learned Chief Judicial Magistrate, Hisar summoned the accused vide orders dated 18.02.2012 under Section 500 IPC. One of the accused No.2 through their Senior Executive Legal Media Content Communications have come up in this petition for transfer of the proceedings on the grounds that at the hearing large number of persons from the complainant side consisting of the followers of the sect come and which is not only threatening but causes great difficulty in conducting the case on behalf of the petitioners who are apprehensive that they may not be able to get justice and, thus, on the plea that there may be denial of legitimate right have sought this prayer.

On behalf of the State reply has been submitted that they have no concern with the private complaint between two sides, however, asserting that number of criminal cases have already been registered against Sant Rampal of “Satlokh Ashram” and his followers under different provisions of law.

The complainant has denied the contentions of the applicant/petitioners terming it to be untenable and based on falsehood.

Appreciating the submissions, no doubt, as has sought to be argued, Section 407 Cr.P.C empowers this Court that if it is necessitated to enable to hold a fair and impartial inquiry or trial or that it is expedient for the ends of justice, for the convenience of the parties, a matter needs to be transferred from one criminal Court to another and it can do so by the exercise of these powers. However, as a mark of caution, it needs to be reiterated here that it is the actual hindrance to a party in pursuing its legitimate redressal of rights under the law that a Court needs to show indulgence and mere an imaginary apprehension cannot be a ground to call this Court come to the aid of the party. Though, on behalf of the complainant his counsel has placed reliance to hammer home the point that there is nothing tangible to accede to this prayer of the petitioners and which is sought to be thwarted by the counsel for the petitioners, who has placed reliance on **2010(5) SCC 115 Central Bureau of Investigation (CBI) vs. Hopeson Ningshen and others; 2005 (4) RCR (Criminal) 725: Sri Jayendra Saraswathy Swamigal, Tamil Nadu vs. State of Tamil Nadu and others** what is apparently and undisputedly there much prior to the present occurrence and filing of the complaint, there has been armed show of strength against the State by the sect of which the complainant is a follower. Repeated assertions of the counsel for the petitioners that on account of earlier social unrest, tension and apprehension of possible physical attack on the accused during the Court hearings certainly cannot be termed to be unfounded or imaginary. A trial which is primarily aimed at ascertaining the truth has to be fair and just for all and it has to be guarded against to achieve fairness and to prevent miscarriage of justice. Though, a

party is not unduly intimidated and coerced into a position where they are unable to defend themselves. Learned counsel for the complainant though has sought to ward off all these apprehensions by giving assurance and challenging stand of the petitioners but having regard to the undisputed facts which need not to be reproduced for which this Court can take judicial notice, else it may not to be construed as prejudicial. It is not required to be documentarily demonstrated that justice is likely to be inevitably fail but such a situation can be readily inferred from the circumstances past, present and future. Commensurate with the principle of administration of justice which calls for that justice should not be only done but it should be seem to have been done and having regard to the fact that the petitioners have to attend the Court hearing from another State and that the complainant side and its sect are well entrenched in the area with large number of followers, who have already earlier demonstrated their violence and, thus, to do equity and justice to all and to ensure that there is due administration of justice to all these parties to achieve the ends of justice, it is necessary that the criminal complaint and its proceedings by way of complaint case No.1061 of 2010 under Section 499,500,34 IPC titled as Baljit Singh vs. Ganesh Thakur and others pending in the Court of learned Judicial Magistrate, Hisar is ordered to be transferred to the Court of Chief Judicial Magistrate Gurgaon.

The parties through their counsel are directed to appear before the concerned Court in the first week of September, 2016.

Let complete records of the case be sent to the transferee Court. The transferee Court shall ensure that the matter is dealt

with by a Senior Officer preferably of the rank of Chief Judicial Magistrate keeping in view the issues involved and the belligerent stands of the two sides.

The petition stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

August 04, 2016

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No