

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

CRM-M No 31684-2016(O&M)

Date of Decision: 24.4.2017

Het Ram

...Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rohit Ahuja, Advocate for petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. Kunal Dawar, Advocate for respondent No.2.

Ritu Bahri, J. (Oral)

Petitioner is seeking transfer of the case bearing No. SC/236/2014 in case FIR No. 222 dated 27.4.2016 registered at Police Station SGM Nagar Faridabad pending in the Court of Additional District and Sessions Judge, Faridabad to any other court of competent jurisdiction at District Sri Muktsar Sahib.

Brief facts of the case are that petitioner is 68 years old person and resident of Gidderbaha, District Sri Muktsar Sahib (Punjab). The marriage of Rajni Bala-daughter of petitioner/complainant was solemnized with respondent No.2- Rajesh s/o Lal Singh resident of Sanjay Colony, Faridabad on 7.2.2016. After some time of marriage, husband of Rajni Bala, father-in-law and mother-in-law started harrassing, beating and demanding dowry from her. After about two months, on 13.4.2016, petitioner received a phone call from Rajni's in-laws that Rajni has hanged herself. After some time, petitioner came to know from her elder daughter that Rajni Bala was being harrassed by her in-laws and she had been compelled to commit suicide. In this background FIR in question was registered against respondent No.2 and his parents.

On notice, reply on behalf of respondent No. 1 was filed

on 12.12.2016, wherein it has been mentioned that during the investigation of case,

inquest proceedings of dead body of Rajni was conducted in the presence of witnesses under Section 174 Cr. P.C. and statement of witnesses Satpal and Sharda wife of Het Ram under Section 175 Cr. P.C. were recorded. Thereafter, deadbody was sent to B.K.Hospital, Faridabad for conducting post mortem. After conducting the post mortem, the doctor found that cause of death is *Asphyxia* due to hanging which is ante moretm in nature and sufficient to cause death in ordinary course of nature. After registration of the FIR, statement of Satpal was recorded under Section 161 Cr. P.C. on 27.4.2016. During the couse of investigation, respondent No.2-Rajesh son of Lal Singh had joined investigation and was arrested. Further during investigation, evidence against father-in-law and mother-in-law of the deceased was not found to be sufficient.

On the basis of the statemnt of witnesses final report of challan under Section 173(2) Cr. P.C. was prepared and put in court on 9.5.2016 against respondent No. 2-husband of Rajni.

In the present petition, petitioner is seeking transfer of the aforesaid petition on the ground that he is 68 years old person and resident of Gidderbaha, District Muktsar Sahib. It becomes very difficult for him to attend the Court proceedings at Faridabad. Further the complainant is also residing in District Muktsar Sahib.

Learned counsel for petitioner refers to the judgment of the Apex Court rendered in **2007(2) RCR (Criminal) 116, Satish Jaggi vs. State of Chhattisgarh and ors**, wherein, it has been held that for the convenience of parties including witnesses to be produced at the trial is also a relevant consideration for deciding the transfer petition. A perusal of the judgment shows that transfer was sought on the ground that Sessions Judge before whom the trial was pending is the elder brother of a sitting MLA who is very close to the father of respondent No. 3, one of the main accused persons. Keeping in view the fact that for the convenience of the parties including the

witnesses to be produced at the trial is also a relevant consideration for deciding the transfer petition. It has been held that apprehension of not getting a fair and impartial inquiry or trial is required to be reasonable and not imaginary based upon conjectures and surmises.

Learned counsel for State has informed that out of total witnesses, 10 witnesses have been examined and trial is fixed for 1.5.2017. There are three private witnesses yet to be examined.

On the other hand, learned counsel for respondent No. 2 also refers to judgments of Apex Court rendered in 2012 (2) RCR (Criminal) 259, Rajesh Talwar vs. CBI etc; 2010 (3) RCR (Criminal) 929 Bhiary Ram etc vs. CBI etc.; 2011(1) RCR (Criminal) 542 Jyoti Mishra vs. Dhananjaya Mishra; and also the judgments of this Court rendered in 2012 (4) RCR (Criminal) 29, Gurjeet Bajaj vs. State of Haryana etc, and 2016 (2) Law Herald 1284 Manish Tandon vs. State of Haryana etc.

I have heard learned counsel for the parties at length and perused the facts available on record. I find that inconvenience cannot be really a ground for transfer of a criminal trial. In the present case as informed by learned State counsel on instructions from HC Amit Kumar, the trial is fixed for 1.5.2016 for recording the statement of the prosecution witnesses.

In view of above findings, present petition is disposed of with the direction to get the evidence of three witnesses recorded on two dates.

Disposed of with abovesaid directions.

(RITU BAHRI)
JUDGE

24.4.2017
preeti

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No