

CRM-M-31093 of 2015(O&M)

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In the High Court of Punjab and Haryana at Chandigarh

CRM-M-31093 of 2015(O&M)

Date of Decision:28.4.2017

Gurjit Kaur

---Petitioner

vs.

Gurdial Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

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

Mr. A.S.Cheema, Advocates
for the respondent

Rekha Mittal, J.

CRM- 4496 of 2017

Heard.

Allowed as prayed for. Annexures A-7 to A-9 are taken on
record subject to just exceptions..

CRM-M-31093 of 2015

The petitioner has approached this Court seeking transfer of
criminal complaint titled “Gurjit Kaur vs. Gurdial Singh” pending in the
Court of Sub Divisional Judicial Magistrate, Sardulgarh District Mansa to a
nearby district/competent Court.

The sole submission made by counsel for the petitioner is that
as the respondent is a practising advocate in the Judicial Courts at

Sardulgarh, he gathered support of Advocates of Sardulgarh Courts and Bar Associations of District Mansa as well as Budhlada Courts and due to intervention of the aforesaid Bar Associations who also gave a call for indefinite strike, FIR lodged at the instance of the petitioner was cancelled by the police and the cancellation report was accepted by the Sub Divisional Judicial Magistrate, Sardulgarh on 25.10.2013. It is further submitted that even the protest petition in the proceedings for cancellation of the FIR was filed by the petitioner engaging an Advocate from District Sangrur as none of the Advocates in District Mansa was ready to appear on her behalf, the petitioner has a serious apprehension that she will not get justice if the proceedings are allowed to continue in the Court at Sardulgarh. It is prayed that the aforesaid complaint may be transferred to a competent court in a nearby district so that the petitioner is able to pursue her remedy without there being any apprehension in her mind.

Counsel for the respondent has submitted that the complaint filed by the petitioner is pending for preliminary enquiry, therefore, the respondent has not been summoned to face proceedings. However, it is submitted that this Court may pass an appropriate order but without prejudice to rights of the respondent even at the pre-process stage.

I have heard counsel for the parties and perused the paper book.

As per settled position in law, justice should not only be done but it should appear to have been done. The apprehension expressed by the petitioner is well founded in view of the Bar Association at district Mansa having decided to go on strike due to lodging of FIR by the petitioner against the respondent. It is also a matter of fact that the police submitted a

cancellation report wherein the petitioner filed a protest petition by engaging a counsel from district Sangrur. In view of the above, it would be expedient if the complaint filed by the petitioner is transferred to a competent court at Talwandi Sabo in district Bathinda.

For the foregoing reasons, the petition is allowed, criminal complaint titled “Gurjit Kaur vs. Gurdail Singh” is withdrawn from the Court of Sub Divisional Judicial Magistrate, Sardulgarh and is transferred to the Senior most Judicial Magistrate posted at Talwandi Sabo for proceeding with the case, in accordance with law.

(Rekha Mittal)
Judge

28.4.2017
paramjit

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