

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

Crl. Misc. M-15613 of 2017 (O&M)
Date of Decision: May 10, 2018

Rajni Bala

...Petitioner

Versus

Harinder Singh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. J.S. Bhinder, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

1. The instant application has been filed under Section 407 Cr.P.C., for transfer of the petition under Section 125 Cr.P.C. bearing No.MNT/125/357/15, filing No.NT/15.08.2015 filed by the petitioner against the respondent titled as "*Rajni Bala and another vs. Harinder Singh*" pending in the court of District & Sessions Judge/Family Court, Barnala, to the court of competent jurisdiction at Sub Divisional Judicial Magistrate, Moonak, District Sangrur.

2. In short, the facts of the case are that, a marriage was solemnized between the petitioner herein and the respondent on 28.10.2012 at Village Lehra, District Sangrur as per Sikh rites and the petitioner started residing in her matrimonial home at Barnala and out of this wedlock, a female child was born on 29.11.2013. It is alleged that

after her marriage, the respondent started harassing her for the demand of dowry and ultimately, she was thrown out of her matrimonial home. It is thereafter, the petitioner filed a petition under Section 125 Cr.P.C. It is submitted that on improper advice of her counsel that the application under Section 125 Cr.P.C. was only maintainable before the Family Court at Barnala, she filed an application under Section 125 Cr.P.C. at Barnala whereas, the petitioner is residing with her parents at Village Lehra, Tehsil and District Sangrur and the petitioner has a right to file an application under Section 125 Cr.P.C. before the court of competent jurisdiction at Tehsil Moonak. The petitioner has to travel a distance of more than 80 kilometers and it is very difficult for her to travel such a distance alone. Counsel for the petitioner also places reliance upon judgment rendered in **Neelam Kanwar vs. Devinder Singh Kanwar, 2000(10) SCC 589** to contend that the convenience of the lady should be taken into account and case be transferred to a place with the ladies residing.

3. Notice of motion was issued in the matter on 08.05.2017, pursuant to which an appearance has been caused on behalf of the respondent. On 15.09.2017, instead of arguing the matter, an adjournment has been sought on behalf of the respondent by proxy counsel to argue the matter and the matter stood adjourned to 16.02.2018. On 16.02.2018, again proxy counsel appearing on behalf of the respondent requested for an adjournment and the matter was again adjourned to 10.05.2018. However, today i.e. on 10.05.2018, no one put

in an appearance on behalf of the respondent.

4. I have heard learned counsel for the petitioner, apart from perusing the pleadings.

5. Admittedly, the proceedings under Section 125 Cr.P.C. are pending at Courts at Barnala. Transfer of a case from one court to another, indirectly casts doubt on the competence and integrity of the Judge from whom the case is sought to be transferred. In normal circumstances, a transfer should not be readily allowed on account of misguided notion of a litigant.

6. The High Court has the power to transfer proceedings under Section 407 Cr.P.C. under said certain circumstances, not limited to, (i) under circumstances when a fair trial cannot be had in any subordinate criminal court; (ii) it will tend to the general convenience of the parties of witnesses; (iii) it is expedient for the ends of justice.

7. As per the petitioner, she is residing at Village Lehra, Tehsil & District Sangrur and she has a right to file the application under Section 125 Cr.P.C. before the court of competent jurisdiction of Tehsil Moonak whereas, on improper advice given by her counsel, she filed the said application at District and Sessions Court, Barnala and due to this reason, she has to travel alone for more than 80 kilometers to proceed with the case at Barnala.

8. This court has gone through the complaint (Annexure P-1) filed at District and Sessions Court, Family Court, Barnala, which goes on to show that the petitioner herein along with minor daughter is residing at

Lehragaga, Tehsil Moonak, District Sangrur. Under these circumstances, it would be in the interest of both the petitioner and her minor daughter, if the said case is transferred from the District and Sessions Court at Barnala to the District and Sessions Court at Sangrur, who will further entrust the case to the court of competent jurisdiction at Tehsil Moonak.

9. In view of the above and in consonance with the judgment rendered in **Neelam Kanwar's case (supra)**, the petition filed by the petitioner against the respondent under Section 125 Cr.P.C. bearing No.MNT/125/357/15, filing No.NT/15.08.2015 titled as “*Rajni Bala and another vs. Harinder Singh*” pending in the court of District & Sessions Judge/Family Court, Barnala, is withdrawn from there and transferred to the District & Sessions Court, Sangrur, who will entrust the said case to the court of competent jurisdiction. The parties herein are directed to appear before the District & Sessions Judge at Sangrur on 05.07.2018 at 10.00 a.m.

10. The petition in hand stands allowed accordingly.

11. A copy of this order be sent to the concerned courts for necessary compliance through fax as well.

May 10, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No