

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

CRM-M-20806-2017

Date of decision:-16.8.2018

Amit Saini

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Jasbir Singh Mohri, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

Mr.Harsh Chopra, Advocate for
Mr.Vinod Bhardwaj, Advocate
for respondent No.2.

H.S. MADAAN, J.

By way of filing the present petition, petitioner Amit Saini, who is an accused in the case seeks transfer of the case in question titled 'State of Punjab Versus Amit Saini and others', FIR No.3 dated 6.1.2017, Police Station City, Phagwara, District Kapurthala under Sections 406, 498-A IPC pending before SDJM, Phagwara to some other Court of competent jurisdiction.

Shortly put, the case of the petitioner is that he was married with Nancy arrayed as respondent No.2; that after the marriage, a dispute arose between the parties; that Nancy had got her pregnancy aborted on 24.7.2016 at Sagarh Hospital, Rani Jhansi Road, Ludhiana without consent of the petitioner; that her parents interfered in the

matrimonial life of respondent No.2 and the petitioner; that she had gone to her parents house for the purpose of delivery of child, however, the petitioner had come to know that she had got the foetus aborted, which was on 23.7.2016. According to the petitioner, the complainant – respondent No.2 has lodged a false FIR against him, in which he got bail; that challan has been filed against him in the Court of Judicial Magistrate at Phagwara; that the petitioner has been regularly attending the proceedings; that on 28.4.2017 when he was going to the Court along with his sister and advocate to file vakalatnama, then he was intercepted by respondent – complainant, who was accompanied by her brothers; that the petitioner immediately called the police at police Helpline No.181 and then lodged a complaint with the police but the police did not take any action; that respondent No.2 and her brothers left the place threatening the petitioner that they would see him on the next date of hearing; that on 29.4.2017, the petitioner had filed a formal complaint with police for taking action against respondent No.2 and her brothers but the police has not taken any action so far; that on 10.5.2017, respondent No.2 came along with her brothers Vicky Arora, Tinku Sony and her father Bharat Bhushan, who thrashed the petitioner with wooden sticks outside the Court premises at Phagwara; that the petitioner received severe injuries; that he got himself medically examined, thereafter, the petitioner lodged a complaint dated 10.5.2017 at Police Station Phagwara. According to the petitioner under these circumstances, it is not possible for him to attend the proceedings at Phagwara Court. Therefore, the petitioner seeks transfer of the case from the trial Court at Phagwara under Kapurthala Sessions Division to some

other criminal Court in any other Sessions Division.

This petition is being resisted by respondents. Respondent No.1 – State of Punjab and respondent No.2 – Nancy have filed separate written replies. In the written reply filed on behalf of respondent No.1, it is contended that the petitioner had made a complaint at 181 Police Helpline on the allegations that on 28.4.2017 when after attending the hearing in the case 'State Versus Amit Saini' in the Court of SDJM, Phagwara, they had reached at outer gate of the Court Complex, Phagwara, he was waylaid by his father-in-law Bharat Bhushan but that complaint after inquiry, was found to be false; that the petitioner had moved another application accompanied by a copy of medico legal report on the allegations that on 10.5.2017 when he had come to attend the date of hearing in the case, he was assaulted by Bharat Bhushan, Vicky @ Vivek Dhingra, Ashish Dhingra, who were accompanied by 3-4 other unidentified assailants. However, the petitioner did not come present and he also did not make any statement to substantiate the allegations made by him in the complaint and on inquiry it comes out that no such alleged occurrence ever took place. According to respondent No.1, the petitioner is in the habit of moving such like false applications simply to gain sympathy and to make out a false ground seeking transfer of the case. On merits, these very pleas have been repeated while controverting the assertions in the petition.

Respondent No.2 – Nancy in her reply while denying the allegations in the petition submitted that no ground for transfer of the case is made out.

I have heard learned counsel for the parties besides going

through the record.

Respondent No.1 – State has categorically stated that the petitioner had informed the police twice levelling allegations that Bharat Bhushan, the father of the complainant had assaulted him but both times, the allegations were found to be false. He is not shown to have filed any private complaint in the matter. He is not shown to have informed learned District & Sessions Judge, Kapurthala, who is head of the District judiciary and the Court concerned etc. The apprehensions of petitioner clearly come out to be misconceived.

The petition being without merit stands dismissed accordingly.

(H.S.MADAAN)
JUDGE

16.8.2018
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No