

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

Crl. Misc. M 23909 of 2018 (O&M)
Date of decision: November 17, 2018

Vikrant

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Ms. P.K.S Phoolka, Advocate,
for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

Mr. Krishan Singh, Advocate,
for respondents No. 2 to 6.

Mr. Jai Bhagwan Tobria, Advocate,
for respondents No. 7 to 10.

JAISHREE THAKUR, J.

This is a petition that has been filed under Section 407 read with Section 482 of the Code of Criminal Procedure seeking transfer of trial of FIR No. 97 dated 3.8.2017 registered under Sections 302/304-B/34 IPC at Police Station Jathlana, District Yamuna Nagar, to competent court of jurisdiction at Chandigarh or any other place outside the State of Haryana.

In brief facts are that aforesaid FIR came to be registered on the statement of the petitioner against the private respondents for the commission of offence of murder of his real sister, namely, Raman Kumari.

It was alleged that his sister aged 24 years was married with respondent

No.2—Mandeep Singh son of Gulab Singh on 12.6.2015. At that time, his

parents had given sufficient dowry as well as a motor-cycle. However, the family members of the complainant's sister's in-laws were not satisfied with the motor-cycle and demanded a car. There was continued harassment meted out to the sister of the complainant and demand for more dowry continued. On 3.8.2017 the petitioner and his family members were informed that Raman Kumari has committed suicide by hanging herself with her *chuni* (scarf) with the ceiling fan. After registration of the FIR, the trial has commenced at Yamuna Nagar.

Learned counsel for the petitioner herein submits that respondent No.9—Naresh Kumar Dehria is the real brother-in-law of respondent No. 2 accused and is posted as Additional District Judge and Sessions Judge, Rewari. He was earlier a practising advocate at District Courts, Yamuna Nagar and, thus had great influence over the local police and District Bar Association of Yamuna Nagar and, therefore, he has exercised great influence over the investigation. It is argued that the local police had tried their best to save the private respondents from being implicated. It is argued that the petitioner herein is being continuously threatened and harassed by the respondents and in fact on 11.3.2018, the petitioner was given beatings by the paid henchman of the accused. In this regard, he had given an application to the SHO, Police Station, Maulana, District Ambala. It is further argued that Suresh Kumar Dehria, Advocate is the real brother of Naresh Kumar Dehria and is a practising lawyer at District Courts, Yamuna Nagar, who is also exercising pressure and is threatening the petitioner to compromise the matter and not depose against the private respondents. It is argued that sister of the petitioner herein died

within two years and three months of the marriage and it is apprehended that on account of the pressure being exercised by the private respondents, namely Additional District & Sessions Judge and his brother, who is a practising lawyer in Yamuna Nagar, the petitioner would not get justice and fair trial.

Per contra, learned counsel appearing on behalf of the private respondents and the respondent—State submit that all the allegations as set out are not substantiated by any documentary evidence. It is argued that merely on apprehension a case should not be transferred since the trial is going on smoothly and four witnesses have already been examined. The trial started as far back as 26.10.2017 and the first witness was examined in January, 2018. It is also argued that four witnesses have been examined along with material witness i.e. complainant and at this stage to have the trial transferred would not be justified.

I have heard learned counsel for the parties have gone through the record.

In the present case, after registration of the FIR, charges have been framed and trial has commenced. As already noticed, four witnesses, including the petitioner, who is the complainant and material witness, have already been examined and, therefore, the question of any influence being exercised by the private respondents upon the witnesses to depose in a particular way does not arise. There are no allegations of bias against the Presiding Officer, who is conducting the trial. Furthermore, a reply by way of affidavit of Ajay Kumar HPS, D.S.P. Radaur, District Yamuna Nagar has been filed on behalf of respondent No.1 and it has been specifically stated

therein that the petitioner never made any complaint to the police regarding any threat being extended to him by the private respondents. It is also submitted that respondent No.9, namely Additional District & Sessions Judge, who is the relative of the accused never interfered or approached the police in this case.

It is well settled proposition of law that a litigant cannot choose a Bench of his choice and only under exceptional circumstances, the powers under Section 407 of the Code of Criminal Procedure are to be exercised to transfer the trial of one case to another Court of competent jurisdiction. While exercising this power, the Court is to scrutinize each aspect with care and caution. In the present case, there is no complaint of bias against judicial officer nor did the petitioner ever before commencement of the trial make any complaint apprehending that either he or any of the witnesses are being compelled to depose in a particular way.

In view of the above, this court is not inclined to interfere in the present petition. Dismissed.

November 17, 2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No