

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

CRM-M-26346-2016

Date of decision: 23.01.2018

Vipul Mehta

...Petitioner

Versus

Surbhi Mehta

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. P.S. Ahluwalia, Advocate,
for the petitioner.

Mr. Navkiran Singh, Advocate,
for the respondent.

JAISHREE THAKUR, J.

This is a petition that has been filed under Section 407 read with Section 482 of the Code of Criminal Procedure praying for transfer of Criminal complaint No. 9 dated 12.05.2016 instituted under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short “the D.V. Act”) titled as '*Surbhi Mehta vs. Vipul Mehta & others*' pending in the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi, District Kapurthala.

In brief, the facts are that a marriage was solemnized between Vipul Mehta and Surbhi Mehta and on account of matrimonial discord FIR No. 38 dated 11.04.2015 was registered under Sections 406, 498-A, 506 and 313 IPC at Police Station Sultanpur Lodhi, District Kapurthala. Thereafter, the respondent wife opted to file a Criminal complaint under the provisions of the D.V. Act on 09.05.2016. The petitioner was summoned in the said matter.

It was alleged that the complainant had been subjected to continuous physical, economical and mental torture since the date of marriage i.e. 01.10.2006 till 19.12.2013 when the respondent compelled her to leave her matrimonial home.

Learned counsel for the petitioner contends that the father of the respondent-wife is in fact a practicing lawyer and has more than 100 cases pending in the Tehsil Complex at Sultanpur Lodhi and even appears in cases at Kapurthala and thus is in a position to exercise influence. It is argued that the petitioner's parents had applied for grant of anticipatory bail in case FIR No. 38 dated 11.04.2015 under Sections 404, 498-A, 506 and 313 IPC registered at Police Station Sultanpur Lodhi, District Kapurthala and after granting interim bail to them the Addl. Sessions Judge, Kapurthala thereafter recused himself. The Bar Association at Sub Division Sultanpur Lodhi comprises of about 40 members, and it being a close knit association, no lawyer is ready and willing to take up the case of the petitioner and his family members. It is in this background that a prayer has been made to transfer the case out of the said jurisdiction.

Per contra, learned counsel appearing on behalf of the respondent submits that any apprehension that has been raised by the counsel for the petitioner is unfounded and unsubstantiated as would be evident from the fact that the Addl. Sessions Judge, Kapurthala after hearing the bail application of the parents of the petitioner had allowed them the protection as sought for. It is argued that no substantial ground has been made out for transfer of the proceedings from the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi, District Kapurthala to outside District

Kapurthala.

I have heard learned counsel for the parties and have perused the record of the case.

Admittedly, the dispute under the D.V. Act is pending between the parties in the Court of Sub Divisional Judicial Magistrate, Sultanpur Lodhi, District Kapurthala. 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. In the instant case no aspersions can be cast upon the Court hearing the matter as would be evident from the fact that the interim protection had been granted to the parents of the petitioner by the Court at Kapurthala under the FIR. However, this Court can also not lose sight of the fact that father of the complainant-respondent-wife is a practicing Advocate and, therefore, there is a justifiable apprehension of the petitioner that they may not get proper assistance by Advocates if the proceedings are allowed to continue in the Courts situated at Sultanpur Lodhi, District Kapurthala.

Faced with this, counsel for the parties have fairly agreed that the matter could be transferred to the Court of competent jurisdiction at Nakodar which is at about a distance of 24 Kms from Sultanpur Lodhi and would be convenient location for both the parties.

In view of the consensus that has been arrived at, the Criminal complaint No. 9 dated 12.05.2016 instituted under the provisions of Protection of Women from Domestic Violence Act, 2005 titled as '*Surbhi Mehta vs. Vipul Mehta & others*' pending in the Court of Sub Divisional

Judicial Magistrate, Sultanpur Lodhi, District Kapurthala shall stand transferred to the Court of Judicial Magistrate, Nakodar with the entire record.

Parties through their counsel are directed to appear before the Judicial Magistrate, Nakodar, on 05.03.2018.

The petition stands disposed of with the aforesaid direction.

23.01.2018

Satyawan

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.