

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

204

CRM-M-26909-2016

Date of Decision: September 20, 2018

Ranjit Kumar and another

.....Petitioner(s)

versus

State of Haryana and another

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Rajeev Kawatra, Advocate
for the petitioners.

Mr. D.R. Singla, DAG, Haryana.

Mr. Saroj Malakar, Advocate
for respondent No.2

Sudhir Mittal, J. (Oral)

A perusal of the order dated 14.09.2018 shows that the matter had been heard at length but was adjourned to today as learned counsel for respondent No.2 was not prepared for arguments on that date.

2. Today, learned counsel for respondent No.2 submits that the grievance of the petitioners is that the trial has not commenced *de novo* and that PW-1 and PW-2 have not been examined again. For this purpose, he can move appropriate application before the learned trial Court for their re-examination.

3. Petitioner No.1 has been summoned as additional accused and thus, it is his right to be present during the examination of all witnesses and also of cross-examining them. The Court is bound in law to ensure that he is not deprived of his rights. Parties cannot be subjected to any uncertainty regarding their rights and

thus, the course suggested by learned counsel for respondent No.2 cannot be approved. If such a course is adopted, it would be subject to the uncertainty of the outcome of the application, which respondent no.2 proposes should be filed by petitioner No.1.

4. The issue in this petition is; whether the trial should be transferred outside Hisar-District, in view of facts and circumstances of this case?

5. The record indicates that the learned trial Judge has not acted in accordance with law. He was asked to submit a report about his conduct and the same has been received but found to be unsatisfactory. An accused is entitled to fair trial. Even if there is slightest apprehension of a bias, such an apprehension needs to be removed from the mind of the litigant. Thus, the trial of the case deserves to be transferred outside District Hisar.

6. The petition is accordingly allowed and the trial of case FIR No.744, dated 25.10.2012, under section 380 IPC, registered at Police Station Civil Lines Hisar, titled as “ ***State Vs. Kulbhushan*** ” is withdrawn from the Court of Sh. Sandhir Kumar, Judicial Magistrate Ist Class, Hisar, and is transferred to the Court of Chief Judicial Magistrate, Faridabad, for decision according to law.

7. Parties shall appear before the transferee Court, Faridabad, on 03.10.2018 at 10:00 A.M.

September 20, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No