

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

CRM-M-28411-2016 (O&M)

Date of decision: 20.03.2018

Anuja Rana

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Rajiv Kataria, Advocate
for the petitioner.

Mrs. Anju Arora, Addl. A.G., Punjab.

Mr. R. K. Arya, Advocate
for respondents No. 3 and 4.

JAISHREE THAKUR, J. (Oral)

1. This is a petition that has been filed under Section 407 of the Code of Criminal Procedure praying for transfer of case/challan pending in the Court of Additional Sessions Judge, Gurdaspur to any other Court near Panchkula in FIR No. 72 dated 07.06.2016, registered under Sections 498A, 406, 328 and 120-B IPC and Section 3 of the Dowry Prohibition Act, 1961 at Police Station City Gurdaspur, District Gurdaspur.

2. In brief, the facts as alleged are that a marriage was solemnized between the petitioner and respondent No. 1 on 15.05.2014 as per Hindu rites and ceremonies at Panchkula. The parties met each other through a marriage website. At the time of marriage, sufficient money was spent besides giving more than 20 tolas of gold. A sum of ₹ 20,00,000/- were also demanded by respondents No. 2 to 4 from the parents of the petitioner after the engagement ceremony which was given on account of the pressure being

exercised. After marriage, the petitioner went to the United States of America and resided with the respondent for a few months where there was a demand for dowry. She returned to India to apply for the Visa and again a demand for US \$ 50,000 was raised by the husband Jagbir Singh. A similar demand was raised by the father in law as well. The petitioner expressed her inability to pay the said amount. When she went for her interview to the American Embassy for issuance of K-1 Visa, she was informed that respondent No. 2 Jagbir Singh had withdrawn the said application in May, 2016. Ultimately on account of excessive demand for dowry and harassment, an FIR No. 72 dated 07.06.2016, under Sections 498A, 406, 328 and 120-B of the IPC and Section 3 of the Dowry Prohibition Act, 1961 was registered at Police Station City Gurdaspur.

3. Learned counsel for the petitioner contends that the FIR was registered in Gurdaspur, however, it is difficult for her to pursue her case there. The petitioner is now living in Panchkula along with her parents. It is further argued that respondent No. 3 is a practicing advocate at Gurdaspur and a senior member of the Bar and, therefore, it is very difficult for her to get good legal assistance. In fact, she did engage counsel who has subsequently withdrawn from representing her. It is in this background that a prayer has been made to transfer the case out of the said jurisdiction. Counsel for the petitioner also places reliance upon the judgment rendered in ***Neelam Kanwar versus Devinder Singh Kanwar 2000 (10) SCC 589*** to contend that the convenience of the lady should be taken into account and case should be transferred to a place where the lady is residing.

4. *Per contra*, learned counsel, appearing on behalf of the

respondents, argued that no substantial ground has been made out for transfer of the proceedings from the Court of Sub Divisional Judicial Magistrate, Gurdaspur. It is also contended that both respondents No. 3 and 4 are senior citizens and it would be very difficult for them to travel outside the jurisdiction of Gurdaspur Courts.

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

6. Admittedly, the proceedings under the FIR are pending before the Courts at Gurdaspur. 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.

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

7. However, in the instant case, the transfer is being sought only on the ground that respondent No. 3 is a practising advocate at Gurdaspur and the petitioner herein is unable to get proper assistance and representation. Two letters have been placed on the record, one written by Santokh Singh Basera, Advocate dated 07.09.2016 and another by Sh. Harbhajan Singh Hyer, Advocate, expressing their inability to conduct the case of the petitioner herein due to their personal reasons. Both these

advocates are practicing at Gurdaspur. Therefore, it can safely be concluded that the petitioner will not get adequate representation from the advocates practicing at Gurdaspur. It is also noted that after the registration of the FIR, the police moved an application for taking police remand of the accused in the aforesaid FIR, which application was decided on 16.06.2015. The application was dismissed in which it was noted that many advocates had gathered and had raised a hue and cry.

8. The petitioner herein, who has got an FIR registered against her husband and in-laws on the allegations of demand of dowry and cruelty, is entitled to a fair trial and an opportunity to substantiate her case. The fact that the father-in-law is a senior member of the Bar and a practicing advocate cannot be easily ignored. A reading of the two letters would clearly indicate that advocates at Gurdaspur are chary of representing her, which is reason enough to allow this transfer petition. Moreover, most of the witnesses, who have to depose in the said case, are from the city of Panchkula or its thereabouts, which becomes another reason to allow this transfer petition.

9. The petitioner is a resident of Panchkula and keeping in view that she is a lady, in the interest of Justice, the case is transferred out of Gurdaspur and its vicinity to a place where she can easily travel to. In view of the above case /challan pending in the Court of Additional Sessions Judge, Gurdaspur in FIR No. 72 dated 07. 06.2016, under Section 498A, 406, 328 and 120-B IPC and Section 3 of the Dowry Prohibition Act, 1961 registered at Police Station City Gurdaspur, is transferred to a competent Court at Rupnagar along with the entire record. The District Judge

Rupnagar to mark the case accordingly. Parties through their counsel are directed to appear before the District Judge, Rupnagar on 16.04.2018, accordingly.

10. The petition stands disposed of.
11. However, any opinion expressed herein is for the purpose of deciding the instant transfer petition and not an opinion on the merits of the case.

20.03.2018

Waseem Ansari

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No