

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

CRM-M-32699-2017

Date of decision: 22.02.2018

Suniti

...Petitioner

Versus

Vinit and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr.Lajpat Sharma, Advocate,
for the petitioner.

Mr. Aman Dhir, Advocate,
for the respondents.

JAISHREE THAKUR, J.

1. This is a petition that has been filed under Section 482 read with Section 407 of the Code of Criminal Procedure praying for transfer of Criminal Complaint No. 23/2016 dated 20.9.2016 instituted under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short “the D.V. Act”) titled as 'Smt. Suniti Vs Vineet and others' pending in the Court of Sub Divisional Judicial Magistrate, Bahadurgarh to a Court of competent jurisdiction at Bhiwani.

2. In brief, the facts are that a marriage was solemnized between the petitioner and respondent No.1 on 15.05.2014 as per Hindu rites and ceremonies at Bhiwani. Out of this wedlock a minor child was born as well. On account of a matrimonial discord between the parties, FIR No. 60 dated 24.7.2016 came to be registered under Sections 323, 34, 498-A, 506 IPC at Women Police Station, Bhiwani. Thereafter, the respondent wife opted to file a petition under Sections 125 Cr.P.C at Bhiwani. Ultimately, the petitioner also

filed a petition under Section 12 of the D.V. Act on 20.09.2016 against all the respondents in the Court of SDJM at Bhadurgarh.

3. Learned counsel for the petitioner contends that at the time of filing the petition under the D.V. Act, the petitioner was residing at Bhadurgarh, but since she could not sustain herself she has shifted her residence back to Bhiwani in August 2017 to be with her parents. It is contended that since she has a minor child to look after, the travel from Bhiwani to Bhadurgarh on each date of hearing is arduous. It is in this background that a prayer has been made to transfer the case out of the said jurisdiction.

4. Per contra, learned counsel appearing on behalf of the respondent argued that no substantial ground has been made out for transfer of the proceedings from the Court of Sub Divisional Judicial Magistrate, Bhadurgarh.

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

6. Admittedly, the dispute under the D.V. Act is pending between the parties in the Court of Sub Divisional Judicial Magistrate, Bahdurgarh. 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. However, this Court can also not lose sight of the fact that two proceedings are already pending against the respondents at Bhiwani i.e under the FIR No. 60 dated 24.7.2016 and under section 125 Cr.P.C for maintenance. The petitioner opted to file the petition under the D.V. Act at Bhadurgarh District Jhajjar as at that time she was residing there. For want of support and adequate means, she has shifted back to

Bhiwani, her parental house. Having a minor child and no means of support, it would be expedient and in the interest of justice in case the proceedings pending at Bhadurgarh District Jhajjar are also transferred to a Court of competent jurisdiction at Bhiwani, especially when the respondents are already appearing in two cases there.

7. In view of the above, Criminal complaint No. 23/2016 dated 20.9.2016 instituted under the provisions of Protection of Women from Domestic Violence Act, 2005 titled as '*Smt. Suniti Vs Vineet and others*' pending in the Court of Sub Divisional Judicial Magistrate, Bhadurgarh District Jhajjar is transferred to a competent Court of jurisdiction at Bhiwani, District Bhiwani along with the entire record. The District Judge, Bhiwani to mark the case accordingly Parties through their counsel are directed to appear before the District Judge, Bhiwani on 16.03.2018 accordingly.

8. The petition stands disposed of.

22.02.2018

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes.

Whether reportable

No.