

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-34370 of 2014 (O&M)

Date of decision : 10.8.2018

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Suman Rani

.....Petitioner

vs.

Deepak Verma and another

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sanjeev Sheoran, Advocate
for the petitioner.

Mr. Surender Gandhi, Advocate for respondent No.1.

Ms. Aditi Girdhar, Assistant Advocate General,
Haryana.

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H. S. Madaan, J.

This petition under Section 407 IPC for transfer of criminal case arising out of FIR No. 38 dated 11.2.2014, registered at Police Station Shivaji Colony, Rohtak, under Sections 306, 511, 34, 506 IPC and FIR No. 39 dated 12.2.2014, registered at Police Station Shivaji Colony, District Rohtak, under Sections 498A, 354, 506, 34 IPC, pending in the Court of Civil Judge (Junior Division)- cum-Judicial Magistrate Ist Class, Rohtak, from Rohtak to any other Court of

competent jurisdiction at District Karnal, for the reason that proceedings under Section 125 Cr.P.C. are already pending there, has been filed by petitioner Suman Rani.

Inter alia in the petition, it is mentioned that a matrimonial dispute has arisen between the petitioner and her husband Deepak Verma, arrayed as respondent No.1 in the petition. The petitioner had lodged FIR no. 39 dated 12.2.2014 for offences under Sections 498A, 354, 506, 34 IPC, against her husband. She had filed a petition under Section 125 Cr.P.C. According to the petitioner she is resident of District Karnal and respondent is appearing at Karnal in proceedings under Section 125 Cr.P.C. Father of petitioner is very old. He is suffering from old age related diseases. Earlier brother of the petitioner used to accompany her to Rohtak, but unfortunately her brother has expired. Presently, there is no one to accompany the petitioner to pursue her case at Rohtak. Even conduct of the respondent and her family members is volatile and the petitioner being lonely lady feels insecure. The distance from Karnal to Rohtak is more than 100 kms. Therefore, the petition be accepted.

Upon notice, respondent No. 1 had appeared and filed written reply contesting the petition, stating that no ground for transfer of the case is made out.

Respondent No.2, State of Haryana has also filed written reply to the petition.

I have heard, learned counsel for the petitioner, learned counsel for respondent No.1 and learned State counsel, besides going through the record and I find that there is no merit in the petition.

Learned State counsel, on instructions from SI Rajbir Singh, from Police Station Shivaji Colony, District Rohtak, has stated that after trial the accused have been acquitted in FIR No. 39 dated 12.2.2014 by Judicial Magistrate Ist Class, Rohtak, vide judgment dated 30.4.2018. It being so, the petition has become redundant as far as the said case is concerned. As regards, the other criminal case, the reason for transfer given is that the Court at Rohtak where that case is pending is at a distance of 100 kms away from the parental place of the petitioner and in absence of any male member, it is difficult for her to come there. However, I find that this reasoning does not provide justification for transfer of the case. The case being transferred from the Court having jurisdiction, to a place not having the jurisdiction, just considering the convenience of petitioner, is not desirable. When petitioner could attend the dates of hearing in one criminal case, pending in the Courts at Rohtak, which has since been decided, she can very well attend the hearing in the other case. The case in question is a State case which is to be pursued and prosecuted by the State. The State counsel is there to watch interest of the prosecution. Appearance of the complainant in the Court on each and every date of hearing is not necessary and purely her option.

Learned counsel for respondent No.1 has referred to authority **Rajesh Talwar vs. Central Bureau of Investigation and others 2012 (2) RCR (Criminal) 259**, by the Apex Court. As per facts of the said case, the accused was residing at Delhi, but was facing criminal proceedings at Noida (U.P.). He had moved an application for transfer of criminal proceedings to Delhi Court for the

reason that he had to travel 52 kms, which was inconvenient. That prayer was rejected observing that inconvenience is not a valid basis for transfer of criminal proceedings. Learned counsel for respondent No.1 has further referred to citation **Jyoti Mishra vs. Dhananjya Mishra 2011 (1) RCR (Criminal) 542**, by the Apex Court, where wife living at Hyderabad, who had lodged FIR under Section 498-A IPC against her husband and five others, at Hyderabad, but thereafter she had shifted to Indore, had moved a case for transfer of petition to Indore, that petition was dismissed.

In the facts and circumstances of the case and in view of the law laid down in the authorities referred to by the learned counsel for respondent No.1, I do not see any ground to accept the petition. The same stands dismissed.

10.8.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No