

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

1. CRM-M-38735-2016

Kuljit Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

2. CRM-M-40422-2016

Kuljit Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondent

Date of decision :-26.9.2018

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.O.S. Batalvi, Advocate
for the petitioner.

Mr.Dhruv Dayal, Sr.DAG, Punjab.

Mr.Amit Arora, Advocate
for respondent No.2.

H.S. MADAAN, J.

Vide this order, I shall dispose of two petitions i.e. **CRM-M-38735-2016** and **CRM-M-40422-2016** filed by petitioner Kuljit Singh.

By way of filing **CRM-M-38735-2016** petitioner – Kuljit Singh, who is an accused in FIR No.49 dated 6.2.2015, under Sections 498-

A, 406, 506, 34 IPC, registered at Police Station City, Tarn Taran pending before Chief Judicial Magistrate, Tarn Taran seeks transfer of the case to the Court of competent jurisdiction at Hoshiarpur, Jalandhar or Pathankot for the reason that complainant Dr.Samir Kaur, who is wife of the petitioner and who has got the case in question registered on account of matrimonial dispute between the parties and members of her parental family, are influential persons having links with politicians and police and they are not only harassing the petitioner in one way or the other but also giving threats to him; that petitioner was manhandled on 19.10.2016, though he had reported the matter to police but no action was taken; that the real brother of the complainant, namely, Sudeep Singh is a Practicing Advocate at District Court Tarn Taran, who is using his influence over other Advocates/lawyers so that the petitioner could not defend his case in a proper manner, therefore, he has prayed for transfer of the case.

By way of filing CRM-M-40422 of 2016, the petitioner has sought transfer of petition under Section 125 Cr.P.C. filed by his wife Dr.Samir Kaur against him pending before Chief Judicial Magistrate, Tarn Taran on these very grounds.

Notice of the petitions was issued to the respondents, who put in appearance through counsel.

The request is being opposed by respondent No.2 vehemently denying the allegations in the petitions stating that instead of filing petitions under Section 407 Cr.P.C. seeking transfer of the cases, the petitioner has filed petitions under Section 482 Cr.P.C., which are not maintainable. It is

contended that respondent No.2 has been treated with cruelty by the petitioner and thrown out of her matrimonial home; that she is at mercy of her parents having no independent source of income and it would be quite difficult for her to attend the dates of hearing, if the cases are transferred to other place. In the end, a prayer for dismissal of the petitions has been made.

In the written reply filed on behalf of respondent No.1 – State, dismissal of the petitions has been sought contending that no ground for transfer of the cases is made out; that the petitioner is a Constable in Punjab Police and during investigation of the FIR got registered by his wife respondent No.2 against him, it came out that he and his family members had been harassing the complainant on account of demand of dowry. As regards the incident as alleged by petitioner dated 19.10.2016, it is contended that no such incident had taken place and petitioner had not approached the local police by moving any representation. All the allegations regarding petitioner having been threatened by family members of respondent No.2 are refuted stating that the local police is not intimated in that regard.

I have heard the learned counsel for the parties and I find that there is absolutely no ground to accept the two petitions. Firstly the petitions are not maintainable, as rightly pointed out by learned counsel for the respondent No.2 in the reply that instead of approaching this Court under Section 407 Cr.P.C., the petitioner has filed petitions under Section 482 Cr.P.C., as such, the same are not maintainable. Secondly, the allegations levelled by the petitioner that family members of respondent

No.2 have been threatening and intimidating him and had even assaulted him on a particular date have been strongly refuted on behalf of respondent No.1 – State stating that the local police was not informed in that regard. As regards the brother of complainant being Practicing Advocate at District Courts Tarn Taran, as per report received from District & Sessions Judge, Tarn Taran, though Sh.Sudip Singh is a registered member of District Bar Association, Tarn Taran but he is not in active practice since long. Certificate from President, District Bar Association, Tarn Taran in that regard has been attached. Even otherwise, a member of bar can certainly be not so influential so as to interfere with the judicial functioning of a Court. As informed by Chief Judicial Magistrate, Tarn Taran, the petitioner who is Head Constable in Punjab Police is absent from the Court since 16.7.2018 and his warrants of arrest have been issued. The conduct of the petitioner also debars him from seeking the relief prayed for.

There is absolutely no ground to transfer the two cases from the Court at Tarn Taran to some other Court of competent jurisdiction at Jalandhar, Hoshiarpur and Pathankot etc. as prayed for.

The petitions being devoid of merit stand dismissed accordingly.

26.9.2018
Brij

(H.S. MADAAN)
JUDGE

1. Whether reportable? **No**
2. Whether speaking / reasoned? **Yes**