

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

Crl. Misc. M 43309 of 2018 (O&M)
Date of decision: 13.11.2018

Rahul

...Petitioner

Versus

Mrs. Sapna

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Kabul Singh, Legal Aid Counsel
for the petitioner.

Mr. Balraj Gujjar, Advocate,
for the respondent.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Section 407 read with Section 482 of the Code of Criminal Procedure seeking transfer of the case CNR HRBH01-002163-2018 titled Sapna Versus Rahul filed by the respondent—wife under Section 125 of the Code of Criminal Procedure from the Court of District Judge (Family Court) Bhiwani to the court of competent jurisdiction at Faridabad.

The facts in brief are that the petitioner, who is visually impaired person, solemnized marriage with the respondent/complainant on 17.2.2016, but it did not survive, resulting in the respondent/complainant lodging an FIR No. 217 dated 6.8.2018 registered under Section 498-A/406, 323 and 506 IPC against the petitioner. Apart from that, the

respondent/complainant filed a petition under Section 125 of the Code of Criminal Procedure seeking maintenance allowance in the court at Bhiwani, in which notice has been issued to the petitioner. It is this petition which the petitioner seeks to transfer from Bhiwani to Faridabad, on the ground that the he is a visually disabled person and it is difficult for him to undertake the journey and to attend the proceedings now and then without the assistance of some other person/family member.

I have heard learned counsel for the parties and have gone through the documents annexed with the case.

It is well settled proposition of law that a litigant cannot choose a Bench of his choice and only under exceptional circumstances, the powers under Section 407 of the Code of Criminal Procedure are to be exercised to transfer the trial of one case to another Court of competent jurisdiction. While exercising this power, the Court is to scrutinize each aspect with care and caution. In the present case, the only ground on which the transfer of the case from Bhiwani to Faridabad is being sought is that the petitioner is visually disabled person and as such it is difficult for him to undertake the journey and to attend the proceedings now and then without the assistance of some other person/family member. It is also settled law that in case of convenience of parties, it does not necessarily mean the convenience of the parties alone who approached the court on misconceived notions of apprehension, but the convenience of the prosecution, other accused, the witnesses and the larger interest of the society; and the convenience of the parties including the witnesses to be produced at the trial is a relevant

consideration, while transferring a case from one court to another.

In the present case, the petitioner in fact is seeing his convenience only. However, this court cannot lose sight of the fact that in case the case is transferred then, the respondent—wife might also have to suffer same problem because in that eventuality she also has to travel along with some other person and the witnesses.

In view of the above, this court is not inclined to interfere in the present petition. Dismissed. However, the petitioner is at liberty to move an application for his exemption from appearing in the Court on each date of hearing. Needless to mention that he needs to appear when his evidence is required to be recorded.

13.11.2018
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No