

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

CRM-M No. 45520 of 2017

DATE OF DECISION :- August 28, 2018

Sunil Kumar

...Petitioner

Versus

Jyoti Devi

...Respondent

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

Present:- Mr. S.K. Choudhary, Advocate for the petitioner.

None for the respondent.

By way of filing the present petition under Section 407 Cr.P.C. read with section 482 Cr.P.C. petitioner Sunil Kumar prays for transfer of case titled as 'Jyoti Devi versus Sunil Kumar' filed under Section 125 Cr.P.C. pending in the Court of District Judge, Family Court, Pathankot to the Court of competent jurisdiction at Hoshiarpur.

Interalia in the petition, the petitioner has contended that his wife Jyoti Devi has filed an application under Section 125 Cr.P.C. claiming monthly maintenance allowance which is pending before District Judge, Family Court, Pathankot; that Jyoti Devi had filed the said application only to harass the present petitioner despite the fact that he is resident of Tehsil Mukerian, District Hoshiarpur and has never resided at Pathankot; that Jyoti Devi had earlier lodged an F.I.R. No. 54 dated 6.9.2017 at Police Station Hajipur, whereas she had given her address to be that of Tehsil Mukerian, District Hoshiarpur; that petitioner had filed complaint under Sections 424/418/269/270/120-B IPC against his wife Jyoti Devi at Tehsil

Mukerian, District Hoshiarpur. Though the complaint was later on withdrawn in view of compromise. According to the petitioner Jyoti Devi has filed application under Section 125 Cr.P.C. before District Judge, Family Court, Pathankot only to harass the petitioner because her brother-in-law Vishal Kumar is employed in Court premises at Pathankot and he is threatening the petitioner for dire consequences, therefore, the petition be accepted. Notice of the petition was given to the respondent who put in appearance. No formal reply to the petition had been filed. Though the petition is opposed vehemently on behalf of the respondent.

I have heard learned counsel for the parties, besides going through the record.

I do not find any merit in the petition. Section 126 Cr.P.C. provides that proceedings under Section 125 may be taken against any person in any District- (a) where he is, or (b) where he or his wife resides, or (c) where he last resided with his wife, or as case may be, with the mother of the illegitimate child.

In application under Section 125 Cr.P.C. applicant Jyoti Devi has given her address as follows :-

“Jyoti Devi, aged about 25 years, Aadhar Card No.
597781261303 wife of Sunil Kumar daughter of Late Sh.
Gurbachan Lal R/o Village Aneh Post Office Ghiala Tehsil
Pathankot, District Pathankot.”

Which means being deserted wife she was residing with her parents and had given that very address. In the petition in para no. 9 the applicant has submitted that she is presently residing with her maternal Aunt at village Aneh, Tehsil and District Pathankot As such Court at Pathankot

had jurisdiction to entertain and try the application. The case is squarely covered by Section 126 Cr.P.C. Objection to the contrary taken by the petitioner does not merit any attention.

Learned counsel for the petitioner has referred to citation 'K.Mohan versus Balakanta Lakshmi 1983 Criminal Law Journal 1316' by Madras High Court in support of his contention that Court at Pathankot does not have any jurisdiction to try the application under Section 125 Cr.P.C. But I find that the authority is not applicable to the facts and circumstances as well as the context in which such observation had been made.

The allegations in the petition that brother-in-law namely Vishal Kumar is employed at Court premises at Pathankot, who is threatening the petitioner are vague and general. It has not been dilated as to what capacity Vishal Kumar is working and as to when he had allegedly threatened the petitioner. Even otherwise if the petitioner has got any apprehension, he can inform the local police in that regard so as to seek protection. He can inform the Controlling Officer of Vishal Kumar complaining against his alleged threats so as to get action initiated against him. However, for such like reasons the petition cannot be allowed.

Therefore, the petition being without any merit stands dismissed.

(H.S. MADAAN)
JUDGE

August 28, 2018

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No