

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

**CRM NO. M-47699 OF 2018
DATE OF DECISION : 29.10.2018**

Uday Pal Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Peeush Gagneja, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition seeking transfer of the trial of FIR No.116 dated 22.02.2016 under Sections 148/149/186/302/307/435/436/ 449/395/323/326 IPC and Section 25 of the Arms Act registered at Police Station Jhajjar (Annexure P-1) and FIR No.182 dated 29.02.2016 under Sections 148/149/288/395/435/436 IPC registered at Police Station Jhajjar, District Jhajjar (Annexure P-2), from District Courts, Jhajjar to any other Court in any other district.

Learned counsel for the petitioner has submitted that the incident for which accused are facing trial, relates to the agitation carried out by the Jat community in the State of Haryana in the year 2016 for seeking reservation in government jobs and educational admissions. It is argued by learned counsel for the petitioner that since Jat community is in majority in the

area of Jhajjar district, therefore, the petitioner apprehends that justice cannot be done at District Courts, Jhajjar.

The second argument raised by learned counsel is that the petitioner has moved an application under Section 319 Cr.P.C., for summoning one Randhir Singh, Advocate and his son; who are seen in some video CD; as additional accused. Since the above said Randhir Singh has remained as President of the Bar Association of District Courts, Jhajjar; thrice, therefore, the petitioner does not expect that he would get justice from the Courts at Jhajjar.

The third argument raised by learned counsel is that the District Attorney posted at District Courts, Jhajjar, also happens to be a Jat. Therefore, she is not performing her duties as Public Prosecutor properly. Hence, the petitioner does not expect that justice would be done in this case by the Courts at Jhajjar.

However, this Court finds the petition to be totally frivolous. It has come on record of the present petition itself that the petitioner is only a witness in the case. His testimony has already been recorded by the trial Court. Therefore, he has no more role to play in the prosecution of this case, as such. He has never been granted any permission by Court under Section 302 Cr.P.C to act as prosecutor. Despite that the petitioner has moved an application under Sections 319 and 311 Cr.P.C., which reflect the bias and over-arching mind-set of the present petitioner. This aspect has further been highlighted by the

argument addressed by counsel for the petitioner, which are relating to aspects of caste only. Needless to say, that dispensation of justice cannot be permitted to be tampered with, on the basis of caste considerations, in any manner whatsoever.

Learned counsel has raised an absurd argument by submitting that since the area of district Jhajjar is inhabited by the Jat community, in majority, therefore, in this case justice cannot be done by the Courts at Jhajjar. This Court does not find the argument even remotely relevant to the judicial proceedings. Another point to be noted in this case is, there is no allegation against the Presiding Officer of the Court. Incidentally, there is no averment in the petition that he belongs to Jat community. Hence, the above argument of the learned counsel is totally misconceived.

The next argument of learned counsel for the petitioner that one Randhir Singh, Advocate has been practising in the District Courts, Jhajjar and he has remained President of the District Bar Association thrice, is also irrelevant. The said Randhir Singh is not even accused before the Court so far. Although, the petitioner claims to have moved an application under Section 319 Cr.P.C; for summoning said Randhir Singh and his son, as additional accused, however, the trial Court is yet to decide whether said Randhir Singh and his son are, at all, liable to be tried in this case or not. It is also yet to be decided by the trial Court whether the petitioner even has any locus standi to file this application. Hence, the possibility of the petitioner even

moving the application under Section 319 Cr.P.C; to create a ground for transfer of the case from Jhajjar district to any other district, cannot be ruled out.

In the end, last argument of learned counsel is that even the District Attorney posted at District Court Jhajjar, belongs to the same community and she is not doing her duties properly. It is further contended that said District Attorney was seen by the petitioner talking to above said Randhir Singh, Advocate, outside the Court. It is further submitted that the petitioner had also got a video CD, alleged to be relating to the same incident during agitation, but, the District Attorney had not led that CD in evidence. However, this argument is also totally misconceived. Merely because the District Attorney is seen talking to another advocate, would not mean that the District Attorney is not doing her duties properly. Even the evidence of the alleged CD, cannot be straightway put up before the trial Court, because the same also requires fulfilment of certain conditions as prescribed under Section 65-A and 65-B of the Indian Evidence Act, 1872. Therefore, the petitioner does not appear to be having any sustainable reason for making allegations against the District Attorney as well. In any case, if he has any grouse against the District Attorney, he can approach the authorities for changing the prosecutor in the case. However, simply because the above said District Attorney is posted at that place, would not be a sufficient ground for transferring the case on mere asking of the present petitioner.

No other argument has been raised by learned counsel for the petitioner.

Since all the grounds mentioned by the petitioner for transfer of trial are totally frivolous and seem to be emerging only from his caste bias, therefore, in normal course, this would have been an appropriate case for burdening the petitioner with exemplary costs. However, since the petitioner also claims to have some concern with justice, even if the same is misplaced, therefore, this Court refrains from imposing any costs upon the petitioner.

However, in view of the above, finding no merits in the present petition, the same is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

OCTOBER 29, 2018
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Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO