

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

CRM-M-26397-2017

Date of decision: 21.08.2019

Jyotsna Bhatti

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Lokesh Sharma, Advocate, for the petitioner.

Mr. Saurav Khurana, DAG, Punjab, for respondent No.1.

Mr. Amandeep Singh, Advocate, for respondent No.2.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 407 read with Section 482 Cr.P.C. is for transfer of trial of the case arising out of FIR No.62 dated 14.05.2016 registered under Sections 498-A, 406 of IPC at Women Police Station, District Ludhiana City, from the Court of learned Judicial Magistrate 1st Class, Ludhiana, to any other place outside Ludhiana.

Counsel for the petitioner states that the petitioner is the complainant in the aforesaid FIR. Initially Zero FIR was registered in Una (Himachal Pradesh) but later on the same was transferred to Ludhiana because occurrence is of Ludhiana. He further states that respondent No.2- husband is a practicing lawyer at Ludhiana due to which petitioner is not

getting a lawyer of her choice to represent her in the case. Petitioner is a government teacher and presently she is posted at Kulgran, Block Nangal, District Ropar and it is very difficult for her to travel all the way to Ludhiana on each and every date of hearing, more particularly when she has a minor daughter to look after. She apprehends that justice may not be delivered to her as she is not able to pursue her case properly at Ludhiana.

Respondent No.2 along with his counsel is present in the Court. He states that the allegation that no lawyer is accepting brief from the complainant, is false. She can hire the services of any lawyer from Ludhiana. He has relied upon judgment of this Hon'ble Court in **Gurjit Singh alias Vicky and others vs. State of Punjab and another, 2011(22) R.C.R. (Criminal) 589** to contend that merely because the complainant is not getting a lawyer, is no ground to get the case transferred from one court to other more particularly when the present FIR was registered by the complainant at Ludhiana. He has also relied upon **Shree Baidyanath Ayurved Bhawan Pvt. Ltd. and others vs. State of Punjab and Ors, 2009(3)R.C.R. (Criminal) 954; Gurjeet Bajaj Vs. State of Haryana and others, 2102(4) R.C.R. (Criminal) 26; Madan Lal Vs. CBI/ACU-III New Delhi, 2004(3) R.C.R. (Criminal) 849; Gurcharan Dass Chadha vs. State of Rajasthan, 1966 AIR (SC) 1418** to contend that mere allegation/convenience is not a ground to seek transfer of case.

He further states that earlier the complainant was posted at Garshankar and respondent No.2 had got her transferred to Ludhiana. As she was not interested to stay with respondent No.2, she got herself re-transferred to Nangal. Thus, in this manner, she has intentionally opted for

Nangal and now she intends to seek transfer just to harass the respondent.

Heard counsel for the parties.

The judgments cited by the counsel for respondent No.2 are not in dispute, however, considering the peculiar facts and circumstances of the present case, when the petitioner is working as a teacher and posted at Nangal and has a small daughter of about 8 years, it is practically difficult for her to travel all the way from Nangal to Ludhiana so as to attend the proceedings in the case. In order to meet the ends of justice, it would be appropriate if the trial pending in the court at Ludhiana is transferred to a court in between Ludhiana and Nangal.

Accordingly, the trial which is pending before the court at Ludhiana is ordered to be transferred to the Court of Chief Judicial Magistrate, Hoshiarpur. The Judicial Magistrate 1st Class, Ludhiana is directed to forward the record of the present case to the Court of Chief Judicial Magistrate, Hoshiarpur, who shall either keep the case with himself or may entrust the same to some other court of the competent jurisdiction.

The present petition stands disposed of accordingly.

21.08.2019
SANJEEV

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No