

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

CRM-M-20047 of 2017.

Decided on:- January 09, 2020.

Rahul Mahajan.

.....Petitioner.

Versus

Dr. Sarju Gupta and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. H.S. Brar, Advocate
for the petitioner.

Mr. Kanwar Pahul Singh, Advocate
for the respondents.

HARI PAL VERMA, J. (Oral)

The petitioner has filed this petition under Section 482 Cr.PC read with Section 407 Cr.PC seeking transfer of petition (Annexure P-1) filed by the respondents under Section 125 Cr.PC titled as ***Dr. Sarju Gupta and another Versus Rahul Mahajan*** for grant of maintenance.

The marriage of the petitioner-husband and respondent No.1- wife was solemnised on 12.05.2013. Out of this wedlock, they have one daughter i.e. respondent No.2, namely, Leana Mahajan. There being a matrimonial dispute between the parties, respondent No.1 got registered an FIR No.50 dated 22.09.2016 under Sections 406 and 498-A IPC at Police Station Women, Amritsar City against the petitioner and his family.

Through the instant petition, the petitioner seeks transfer of the petition under Section 125 Cr.PC filed by the respondents primarily on the

ground that the respondent No.1 is an Advocate by profession and she being a member of the District Bar Association, Amritsar where the petition under Section 125 Cr.PC is pending, no lawyer is accepting the brief of the petitioner. The petitioner and his counsel were threatened by the Advocates representing the respondent No.1 along with the President of the Bar Association, Amritsar. In this manner, the petitioner apprehends that no justice would be done to him unless he gets a lawyer of his choice. Moreover, the respondent No.1 along with the Executives of the Bar Association, Amritsar are creating pressure and openly claiming that they will not let any advocate to appear on behalf of the petitioner.

Learned counsel for the petitioner submits that in case the petition filed by the petitioner is ordered to be transferred outside the District Amritsar, the petitioner undertakes to pay travelling expenses to the respondent No.1.

Learned counsel for the respondents has submitted that the allegations made by the petitioner are not supported by any evidence. The petitioner is in arrears of maintenance and it is in order to delay the proceedings, the petitioner is seeking transfer of the petition under Section 125 Cr.P.C.

I have heard learned counsel for the parties.

The petitioner is a resident of Delhi, whereas the respondent No.1, who is a lawyer by profession is residing in Amritsar. Taking into consideration the allegations so made in the present petition and the grounds pleaded therein seeking transfer coupled with the fact that the respondent

No.1 is a lawyer by profession, though she being a lawyer itself is no ground to transfer the case outside the District Amrtisar, however, considering the apprehension so detailed by the petitioner, the present petition is allowed and the petition under Section 125 Cr.PC is ordered to be transferred from the Court of Judicial Magistrate 1st Class, Amritsar to the Court of Senior Most Judicial Magistrate 1st Class, Batala, District Gurdaspur.

Accordingly, the parties are directed to appear before the Court of Senior Most Judicial Magistrate 1st Class, Batala, District Gurdaspur on 30.03.2020. It is made clear that on 30.03.2020, the petitioner shall submit an affidavit before that Court in support of his contention that he has cleared the outstanding maintenance till date.

The petitioner shall also pay the travelling expenses @ Rs.3,000/- for each date of hearing to the respondent No.1, provided the respondent No.1 appears in the case.

January 09, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No