

231

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(Through Video Conferencing)

CRR No.16 of 2021
Date of Decision: 18.02.2021

Tika Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Gurbir Singh Sidhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

The present revision petition is filed for setting aside the order dated 23.12.2020 passed by the District Judge, Bathinda, dismissing the application filed by the petitioner for transfer of a criminal case titled as State Vs. Karamdeep Singh etc. arising out from FIR No.51 dated 24.03.2017, Police Station Raman Bathinda, registered under Sections 304-B and 498-A of IPC.

Learned counsel for the petitioner submits that sister of the petitioner was set on fire by the accused persons after 11 months of the marriage due to demand of dowry and she died due to burn injuries. On account of which, the FIR was registered in which the accused are facing the trial.

Learned counsel for the petitioner further submits that since the accused persons started proclaiming that they have already approached the Presiding Officer/trial Court through her staff members to ensure acquittal

in the case, therefore, the petitioner has every apprehension that he will not

get justice from the said Court and it should be transferred to some other Court, in the interest of justice.

The District Judge, Bathinda, vide impugned order dismissed the application observing that the allegations made in the application are based on merely presumption and apprehensions, which are not sufficient to doubt the integrity of the trial Court/Additional Sessions Judge, Bathinda. A reliance was placed on the judgment passed by Hon'ble the Supreme Court in the case of ***Gurcharan Dass Chadha Vs. State of Rajasthan***. The petitioner has filed the present petition challenging the aforesaid order with similar allegations. Learned counsel for the petitioner further submits that the apprehension of the petitioner is there from the time of registration of the FIR as the police has not conducted the investigation properly as no arrest was made immediately after the incident and the petitioner was forced to compromise the matter. The report under Section 173 Cr.P.C. was not filed in time and therefore, the petitioner had to approach this Court for issuance of a direction to the police to submit the report. It is further stated that on the basis of some enquiry conducted by Superintendent of Police, Bathinda some of the accused were exonerated and they were later on summoned under Section 319 Cr.P.C. Learned counsel for the petitioner further submits that in the anticipatory bail application filed by the accused, who summoned under Section 319 Cr.P.C., this Court has even observed that the role of the police is dubious in the case.

Learned counsel for the petitioner further submits that now the accused persons have started declaring that they had approached the staff of the trial Court, which has assured them of acquittal, therefore, the case be

transferred.

Learned counsel for the petitioner has filed additional affidavit (Annexure P-3) with the allegations that one of the accused Kirandeep Kaur was seen coming from the retiring room of the Presiding Officer through the room of the steno attached to the retiring room of the Presiding Officer and she proclaimed that they will be set free and even extending some threat to the petitioner-complainant.

Learned counsel for the petitioner further submits that the trial Court in the case is going at a very fast pace, though the same does not fall under the category of specified case and therefore, the case be transferred.

On filing of the additional affidavit, the comments of the Additional Sessions Judge, Bathinda/Presiding Officer were sought.

The following explanation has been given:

“The reasons given by the applicant for seeking transfer from this Court, are that accused are openly claiming about having approached the undersigned through court staff and that they have secured acquittal by illegal gratification to undersigned and further that the undersigned is accommodating the accused on their every request. (Para No.13 & 14 of the petition). The body language of accused has changed and they have started claiming that they will be free soon. The undersigned is accommodating them in their repeated requests for short adjournments (Para No.19, sub para No.7 & 8 of the petition). The applicant has not elaborated these pleas except that undersigned is accommodating the accused as to their repeated requests for short adjournments. Here it will be worth while to mention that this case was received by transfer in this Court on 13.12.2019. From that day onwards till 19.2.2020, nine

witnesses were examined by this Court, as prior to that, only two witnesses had been examined. The case was adjourned for recording statements of accused under Section 313 Cr.P.C. for 20.2.2020 from 19.2.2020 and it was during this time that up to 3.3.2020, three adjournments had been granted for recording the statements, because of applications made on behalf of accused Angrej Kaur and Jagtar Singh, seeking exemptions from personal appearance, on medical grounds. On 20.2.2020 an application was moved at the behest of Angrej Kaur to dispense with her personal appearance on the ground that she was suffering from nausea and was a patient of diabetes. On 24.2.2020 an application on behalf of accused Jagtar Singh was moved to dispense with his personal appearance on the ground that he was suffering from stone pain and was to undergo surgery, which was supported by medical certificate of Dayal Kidney Hospital. On 3.3.2020 accused Jagtar Singh made application with the plea that he has been operated upon for stones and was advised to take complete bed rest and it was also accompanied by necessary medical certificate of above said hospital.

Ultimately, statements of accused were recorded on 9.3.2020 and thereafter, the case was adjourned for defence evidence. On 18.3.2020 three witnesses of defence namely Jaswinder Singh, Iqbal Singh and Baltej Singh were present, however, they were not examined on account of relevant instructions issued by Hon'ble High Court, in view of the outbreak of Novel Corona Virus-19, conveyed to this court by the office of learned District & Sessions Judge, Bathinda vide Endst. No.1588R dated 17.3.2020 and they were bound down for 1.4.2020; where-after, no proceedings were carried out, in view of the directions of Hon'ble High Court on account of outbreak of Novel Corona Virus-19. It is clear from the case history that all endeavours had been made by

this court to conduct the trial without any undue adjournments. The applicant has failed to point out as to how it can be called as accommodation of accused in their repeated requests for short adjournments or as to how it can be called accommodating on their every request. The proclamations by accused, if any are made, as alleged by the applicant, outside the courts, do not mean that they are true proclamations. Allegations as such, are denied in toto.

However, I have no objections if the case/trial in question, is transferred to some other court of competent jurisdiction.

This is for your kind information and perusal please.”

After hearing learned counsel for the parties and going through the comments submitted by Additional District & Sessions Judge, Bathinda, I find no ground to transfer the case merely on presumption and assumptions of the petitioner that he will not get justice from the Court. The submissions made by learned counsel for the petitioner that the evidence is being recorded at a very fast pace carries no weight as it is for the Court to record the statements as per the pending cases and nothing has been stated in the explanation given by the Additional District & Sessions Judge that the case has been treated as extra ordinary case.

Rather, the explanation shows that proper opportunity of hearing was given to the accused persons to record their statements under Section 313 Cr.P.C. and then to record their defence evidence. It is also stated that the trial was delayed only on account of the Covid-19 situations for sometimes and now the proceedings are carried out.

It is also stated that the proclamation made by the accused, if

any, outside the Court do not mean any true proclamation and are denied. Accordingly, I find that the only ground seeking transfer of the trial is that the accused persons are making some proclamation that they have a talked with the staff of the Court to get an order of acquittal is no ground to raise a finger on the integrity of the trial Court/Presiding Officer.

Dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

18.02.2021
sandeep

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No