

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

(110)

CRM-M-4997-2022

DATE OF DECISION: 08.02.2022

Ashish

...Petitioner

Versus

Smt. Deepika Anand

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Abhimanyu Singh, Advocate
for the petitioner.

...

SUVIR SEHGAL, J. (ORAL)

Heard through Video Conferencing.

Instant petition has been filed under Section 407 read with Section 482 of the Code of Criminal Procedure, 1973 (for short “the Code”) for transfer of case No.47 of 2020 dated 16.03.2020 titled as *Deepika Anand Versus Ashish* filed under Section 125 of the Code, pending before the Ld. District & Sessions Judge at Yamuna Nagar, Jagadhari in Complaint No.9415 dated 06.12.2019, CNR No.PBSB010010632020 to some other Court.

Facts, in brief, may be noticed.

The marriage of the petitioner was solemnized with the respondent at Banga, Punjab on 11.11.2017 and the couple resided together at Jagadhari, District Yamuna Nagar. A son was born to them on 18.12.2018 and they shifted to Panchkula in January, 2019. On 17.05.2019, the father of the respondent

expired and she along with the child went to her parental home to perform the last rites, however, she did not return. The petitioner filed a petition (Annexure P-1) for restitution of conjugal rights under Section 9 read with Section 26 of the Hindu Marriage Act, 1955 before the Ld. District & Sessions Judge, Yamuna Nagar, Jagadhari and a Civil Suit (Annexure P-2) for permanent injunction restraining the respondent and her family members from posting anything defamatory on the social media to defame the petitioner and from harassing the petitioner and his family members.

Counsel for the petitioner submits that the respondent filed a petition under Section 125 of the Code seeking maintenance before the Ld. District & Sessions Judge at S.B.S.Nagar on 16.03.2020, and though, he has not been served, yet the case status has been appended as Annexure P-3. He has relied upon representations dated 02.12.2019 addressed to the Superintendent of Police, Yamuna Nagar (Annexures P-4 and P-5), to submit that there is a threat perception to the petitioner, in case, he appears before the Court at S.B.S.Nagar. He urges that the petitioner has separately filed TA No.464 of 2020 before this Court seeking transfer of the restitution petition from Yamuna Nagar to S.B.S.Nagar.

I have considered the arguments addressed by counsel for the petitioner.

Hon'ble Supreme Court in ***Umesh Kumar Sharma Versus State of Uttarakhand, AIR 2020 (Supreme Court) 5488*** has summed up the legal position as under:-

“20. The above legal enunciations make it amply clear that transfer power under Section 406 of the Code is to be

invoked sparingly. Only when fair justice is in peril, a plea for transfer might be considered. The court, however, will have to be fully satisfied that in partial trial is not possible. Equally important is to verify that the apprehension of not getting a level playing field, is based on some credible material and not just conjectures and surmises.”

From a perusal of the petition as well as representations (Annexures P-4 and P-5) stated to have been submitted by the petitioner, it is evident that the petitioner has approached this Court on a flimsy ground of threat, which is not reflected anywhere in the petition or in the representations. It is not the case of the petitioner that the Court at S.B.S.Nagar does not have the territorial jurisdiction to try the petition instituted by the respondent under Section 125 of the Code. It deserves to be noticed that the petitioner has not appended the copy of the petition instituted by the respondent. Rather, the case status (Annexure P-3) shows that the maintenance petition has been filed by the respondent in March 2020, which is pending since then for the appearance of the petitioner, who despite being aware of its pendency and the stage of the proceedings, is not appearing before the Court at S.B.S.Nagar.

There is no merit in the present petition and it is ordered to be dismissed.

(SUVIR SEHGAL)
JUDGE

08.02.2022
Pardeep

Whether speaking/ reasoned	Yes
Whether Reportable	Yes