

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

CWP NO. 7125 OF 2022

DATE OF DECISION : 05.04.2022

Jyoti

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Amandeep Vashisth, Advocate,
For the petitioner.

Mr. Sharan Sethi, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

The petitioner has approached this Court seeking quashing of an order dated 16.03.2022 (Annexure P-6), whereby investigation of case FIR No.378 dated 06.12.2021, registered under Sections 120-B, 406, 420, 467, 468, 471, 474, 494, 506 IPC at Police Station City Thanesar, District Kurukshetra has been transferred to Inspector General of Police, Rohtak Range, Rohtak.

2. Learned counsel for the petitioner, *inter alia*, argues that no doubt the competent administrative authority has the power to transfer investigation from one district to another, however, the said power cannot be summarily exercised in the teeth of the territorial jurisdiction vested with police station where the complainant resides. He further argues that power can be exercised by the administrative authority if both the parties

are given an opportunity of being heard since a vested statutory right of the complainant as envisaged under the Code of Criminal Procedure is taken away by virtue of said order. Section 182 sub-clause 2, relevant whereof is reproduced herein below :

182 Offences committed by letters, etc---

XXX

“(2) Any offence punishable under section 494 or section 495 of the Indian Penal Code (45 of 1860) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage or the wife by the first marriage has taken up permanent residence after the commission of the offence.

3. Notwithstanding, above provision vide impugned order dated 16.03.2022 (Annexure P-6), without giving any opportunity to the petitioner, the investigation in the FIR in question has been transferred behind her back, merely on an unsubstantiated allegation of respondent No.6 who is her husband that investigation is taking place in an unfair and biased manner.

4. Learned counsel further points out that on the contrary there is report of Superintendent of Police of the area where FIR is currently registered, clearly stating therein that investigation is proceeding in fair and unbiased manner. Said report has been given a complete short shrift vide the order impugned herein.

5. Given the nature of order being passed, there is no necessity to seek return by any of the respondents as no further proceedings and/or pleadings are required.

6. Without adverting on the merits of the aforesaid contentions of learned counsel for the petitioner, it is deemed appropriate and

expedient that the petitioner as well as respondent No.6 be accorded an opportunity of being heard in person before taking administrative decision on transfer of investigation and/or FIR in question from one district to other.

7. In the premise, the impugned order dated 16.03.2022 (Annexure P-6) is set-aside and the competent authority i.e., respondent No.2 is at liberty to pass a fresh order after granting an opportunity of hearing to the petitioner as well as respondent No.6, as aforesaid.

APRIL 05, 2022
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : **Yes/No**

Whether reportable : **Yes/No**