

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

Sr. No.204

CRM-M-2351-2018

Date of decision : 9.12.2022

Sukhwinder Kaur

.....Petitioner(s)

VERSUS

State of Punjab and another

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Kewal Singh, Advocate for the petitioner

Mr.Kamapreet Singh Bawa, AAG, Punjab

Mr.DS Gurna, Advocate for respondent No.2.

AMAN CHAUDHARY, J.

The present petition under Section 407 Cr.P.C. has been filed seeking transfer of criminal Complaint No.288/5.9.2012, Annexure P-5, pending in the Court of Additional Chief Judicial Magistrate, Ropar to the Court of competent jurisdiction at Ludhiana.

Learned counsel contends that the petitioner, who is a housewife, residing at Mullanpur Mandi, Police Station Dakha, District Ludhiana alongwith her minor school going daughter. She has had a matrimonial discord with respondent No.2, a serving Constable in the Punjab Police. Referring to the litigation inter se the parties, he submits that the petitioner has a petition under Section 125 Cr.P.C. filed at Ludhiana, wherein maintenance of Rs.12,000/- was granted by the Additional District Judge, Ludhiana vide order dated 11.6.2016, Annexure P-1, a complaint, Annexure P-2, under Section 494, 109, 120-B, 420 IPC against respondent

No.2 and other family members and FIR under Sections 406, 498A IPC at Ludhiana. Thereafter the said respondent No.2 and others had filed a civil suit before the trial Court at Ludhiana, mentioning their address of the said town. He further submits that in order to harass the petitioner, a criminal complaint under Sections 420, 465, 467, 468, 471, 120-B IPC was filed by the said respondent No.2 at Ropar, which is sought to be got transferred to Ludhiana, through this petition. This Court vide order dated 19.1.2018 directed by the trial Court to adjourn the matter to a date beyond the date given in this case. The petitioner being a lady having school going daughter, is not a position to travel on a regular basis to Ropar, where the complaint in question is pending. She has no independent source of income and nobody in the family to accompany her to attend the proceedings at Ropar, which is 80 Kms. from Ludhiana. Furthermore, she has specifically stated in para 9 of the petition that respondent No.2, who is serving in Punjab Police has high links and the petitioner has threats to her life at his hands and apprehension that she may be attacked by him while traveling from Mullanpur Dakhan to Ropar.

Learned counsel for respondent No.2 opposes the prayer of the petitioner on the ground that it would be difficult for him to attend the proceedings at Ludhiana, as he is residing at Ropar.

Heard.

It is well settled that convenience of the wife is to be seen while considering the transfer of cases. Hon'ble The Supreme Court of India in the case of **Sumitra Singh vs. Kumar Sanjay and another, AIR 2002 SC 396** has held that "it is the husband's suit against the wife. It is the

wife's convenience that, therefore, must be looked at. The circumstances indicated above are sufficient to make the transfer petition absolute.”

Further in the case of **N.C.V. Aishwarya vs. A.S. Saravana Karthik Sha** 2022 Livelaw (SC) 627, the Hon'ble The Supreme Court of India has observed that “The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio- economic paradigm in the Indian society, generally, it is the wife’s convenience which must be looked at while considering transfer.”

The petitioner, who is the wife of respondent No.2, presently residing within the jurisdiction of the Courts at Ludhiana, is stated to be having no independent source of income and has a minor school going daughter to look after, thus, it would certainly be difficult for her to attend the Court proceedings at Ropar, which is about 80 Kms., from Ludhiana.

Considering the facts and circumstances of the case and as per the settled law that in the petition filed by the husband, it is the convenience of the wife that has to be primarily seen, the present petition deserves to be

allowed.

In view of the above, the instant petition is allowed. Criminal Complaint No.288/5.9.2012, Annexure P-5, pending in the Court of Additional Chief Judicial Magistrate, Ropar is transferred to the Court of competent jurisdiction at Ludhiana. The complete record pertaining to the case shall be sent by the trial Court at Ropar, to the learned District Judge, Ludhiana, within two weeks from the date of receipt of a copy of this order. The learned District Judge, Ludhiana will entrust it to any Court of competent jurisdiction at Ludhiana.

9.12.2022
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No