

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.246

CRM-M-45775-2021 (O&M)

Date of decision: 09.05.2023

Kulbir Singh Brar

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Priyanshu Kamra, Advocate,
for the petitioner.

Mr. A.P.S. Tung, DAG, Punjab.

Mr. D.S. Virk, Advocate,
for respondents No.2 and 3.

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DEEPAK SIBAL, J. (Oral)

1. On 19.10.2017 an FIR bearing No.433 was registered under Sections 431, 279, 447, 511, 506, 427 and 34 IPC at Police Station Sadar Jagraon. The FIR was lodged at the behest of the petitioner and respondents No.2 and 3 were the accused therein. The police investigated the matter and found the contents of the FIR to be false. Therefore, on 17.12.2018 a report was filed before the Judicial Magistrate, Ist Class, Jagraon (for short – the trial court) seeking cancellation of the aforesaid FIR. On being put to notice, the petitioner/complainant filed a petition protesting against the acceptance of the cancellation report on the consideration whereof, on 04.01.2020 the trial court directed the petitioner's protest petition to be treated as a private complaint.

2. While the petitioner/complainant was in the midst of leading of preliminary evidence in support of his complaint, respondents No.2 and 3 filed an application before the Chief Judicial Magistrate, Ludhiana, seeking transfer of the cancellation proceedings on the ground that respondents No.2 and 3 did not expect to get justice from the Court where the proceedings were pending. Through his order dated 18.08.2021, the Chief Judicial Magistrate, Ludhiana ordered the transfer of cancellation proceedings to the Court of Smt. Suman Pathak, Sub-Divisional Judicial Magistrate, Jagraon. Such order of the Chief Judicial Magistrate, Ludhiana is under challenge in the instant proceedings.

3. Learned counsel for the parties are at *ad idem* that the learned Judge from whose Court the proceedings in question had been ordered to be transferred through the impugned order has himself been transferred from Jagraon to Batala and that on account of such change in circumstance the petitioner has no objection if the cancellation proceedings, which had through order of the trial court dated 04.01.2020 been converted to a private complaint are taken up by Smt. Suman Pathak, the present Sub-Divisional Judicial Magistrate.

4. In the light of the afore change in circumstance and the statement made by learned counsel for the petitioner, leaving the issue open as to whether in the afore circumstances of this case, the Chief Judicial Magistrate of a district had the power to transfer proceedings from one Magistrate to the other and that too on account of a complaint moved by one of the parties to the *lis*, this Court directs that the cancellation proceedings which through order dated 04.01.2020 passed by the trial court

were ordered to be treated as a private complaint, shall now be taken up by Smt. Suman Pathak, Sub-Divisional Judicial Magistrate, Jagraon.

5. The final adjudication of the afore complaint has already been delayed. Therefore, it is directed that the matter shall be decided expeditiously but not later than six months from the date of receipt of a copy of this order, in accordance with law.
6. The petition is disposed of in the above terms.

May 09, 2023
Jyoti 1

Whether speaking/reasoned
Whether reportable

(DEEPAK SIBAL)
JUDGE

Yes/No
Yes/No