

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
225
Sukhdev Kaur & Another

CRM-M-4233-2022(O&M)
Date of decision: 12.02.2024

...Petitioner(s)

Vs.

State of Punjab & Others

...Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Sunny K. Singla, Advocate
for the petitioners.

Mr. G.P.S. Bhullar, AAG Punjab.

Mr. Jaswinder Singh, Advocate
for respondent No.2.

NIDHI GUPTA, J.

Prayer in the present petition is for transferring protest petition titled as “State of Punjab Vs. Amarjit Singh & Another” bearing No.UCR/34/19 pending in the Court of learned JMIC, Amloh (Annexure P2) to any other court of competent jurisdiction at District Malerkotla.

2. Learned counsel for the petitioners inter alia submits that complainant/petitioner No.1 is the mother of petitioner No.2 (and mother-in-law of respondent No.2). Respondent No.3 is the mother of respondent No.2 (and mother-in-law of petitioner No.2). It is submitted that petitioner No.2 was married to respondent No.2 on 11.02.2015. No child was born out of their wedlock. Parties are living separately since 27.09.2016. Thereafter, on the complaint of petitioner No.1, FIR No.157 dated 29.10.2016 (Annexure P1) under Sections 498-A and 323 IPC was

registered at Police Station Amloh, District Fatehgarh Sahib against respondents No.2 and 3. Upon investigation, cancellation report was filed in the matter by the police authorities; in which petitioner No.1 has filed the present protest petition (Annexure P2).

3. Learned counsel submits that the petitioners are seeking transfer of the said protest petition from Amloh to Malerkotla on the ground that the petitioners are residents of Malerkotla and they are unable to travel to Amloh to attend the proceedings in the above said case. It is further submitted that if the matter is transferred from Malerkotla to Amloh, no inconvenience will be caused to respondent No.2 as he is already attending the proceedings filed by petitioner No.2 under Section 12 of Domestic Violence Act at Malerkotla. It is further submitted that the petitioners have no source of income therefore, in the interest of justice, same may be transferred to Malerkotla.

4. Per contra, learned counsel for respondent No.2 informs that respondent No.3/mother-in-law of petitioner No.2 has since expired and therefore, present petition qua her stands abated. As regards respondent No.2, learned counsel submits that he is serving in the BSF, and therefore, it is difficult for him to undertake travel to Malerkotla as he is transferred frequently from posting to posting. Learned counsel further informs that in a petition filed under by respondent No.2 under Section 13 of Hindu Marriage Act, he has been granted ex-parte divorce against petitioner No.2.

5. Learned State Counsel informs that during inquiry conducted by SHO, Police Station Amloh and DSP Circle, Khamano, the allegations of demand of dowry and cruelty could not be substantiated against respondents No.2 and 3 and it is in this background that cancellation report has been filed, which was approved by SSP Fatehgarh Sahib and thereafter, final police report in the form of cancellation report under Section 173 Cr.P.C. was prepared on 09.10.2017 and was presented before the learned Court of competent jurisdiction.

6. No other argument is made on behalf of the parties.

7. I have heard learned counsel for the parties.

8. Admittedly, FIR No.157 dated 29.10.2016 (Annexure P1) under Sections 498-A and 323 IPC, was filed on the basis of statement of petitioner No.1 at Amloh. Amloh being the matrimonial home of the parties, cause of action, if any, occurred here, and resultantly investigation was carried out in Amloh itself. Accordingly, cancellation report has been filed in the Court of learned JMIC, Amloh. Thus, the court of competent jurisdiction is that of the learned JMIC, Amloh, District Fatehgarh Sahib.

9. Moreover, the distance between Malerkotla and Amloh is only about 45 km and therefore, no inconvenience will be caused to the petitioners. No cogent reason has been given by the petitioners that merits the transfer of their protest petition.

10. Even otherwise, the Hon'ble Supreme Court, in case of **Anindita Das Vs. Srijit Das (2006) 9 SCC 197** had dismissed the wife's

application seeking transfer of proceedings in a petition filed by the husband. Reference in this regard may also be made to two cases where this Court had dismissed transfer applications filed on behalf of the wife.

These are: **TA No.126 of 2018 Smt. Akhwinder Kaur Vs. Sh. Gurpreet Singh;** and **TA No. 299 of 2019 Nisha alias Manisha vs. Amarveer Yadav.**

11. In view of the above, I find no merit in the present petition, and the same is hereby **dismissed**.

12. Pending application(s) if any also stand(s) disposed of.

(Nidhi Gupta)
Judge

12.02.2024
Sunena

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