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

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Date of Decision: 03.09.2024

SHALINI ANISH YADAV**.....Petitioner***Versus***STATE OF HARYANA****.....Respondent****CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**

Present: Mr. Parvesh Malik, Advocate for the petitioner.
Mr. Gurmeet Singh, AAG, Haryana.

GURBIR SINGH, J.

1. This petition has been filed under Section 407 read with Section 482 of Cr.P.C for transferring criminal case CHI 2220/2023 titled as “State of Haryana Vs. Shalini” arising out of FIR No. 341 dated 23.02.2023 registered at Police Station Karnal Civil Lines, District Karnal, Haryana under Sections 67, 67(A) of Information Technology Act, 2000 from District Court, Karnal to any competent Court at District Sirsa or Hissar.
2. The case in question was got registered by one Randhir Singh, Steno to Commissioner, Karnal that on the govt. email id dckrl@hry.nic.in, obscene and offensive type of emails have been sent by the petitioner.
3. Learned counsel for the petitioner has argued that the instant case has been registered on the instructions of the Deputy Commissioner, Karnal. Even till today, IP address regarding e-mail id has not been traced out by the Investigating Agency. Petitioner has no source even to meet her daily expenses and visiting expenses to Karnal for attending the case. Keeping in view the conduct, nature and temperament of the complainant, it will be dangerous for the petitioner to be present at Karnal for attending the



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court proceedings. The distance from Sirsa to Karnal is about 300 KM. He further submits that petitioner is having doubt in her mind that she might not be getting justice. No prejudice would be caused to the complainant or prosecution if the case is transferred in the Court at District Sirsa or Hissar.

Reliance is placed on judgment in ***Kulwinder Kaur @ Kulwinder Gurcharan vs Kandi Friends Education Trust And Others, 2023(10) R.C.R (821)***, an authority passed of Hon'ble the Apex Court.

4. Learned State counsel has opposed the petition and submitted that the criminal Courts are not anyway influenced by any executive authority. The case was registered on the complaint of the Steno of the Deputy Commissioner's Office and steno of the Deputy Commissioner's Office cannot influence the trial. The petitioner is seeking transfer of the case on false apprehension. There would be a lot of inconvenience to the witnesses, if case is transferred.

5. I have heard the learned counsel for the parties.

6. The petitioner is apprehending that she would not get justice since FIR was got registered by the steno of the Deputy Commissioner's office, Karnal. The Judicial Magistrate is independent and is not subordinate to any other authority. Neither steno of Commissioner's office nor Commissioner can influence the trial. The mere ground on which transfer application has been filed is inconvenience to the petitioner since she has to travel from Sirsa to Karnal to attend the Court. The inconvenience to any of the parties cannot be a valid basis for transfer of criminal proceedings from one Court to another. The jurisdiction of a court to conduct criminal proceedings is based on the provisions of the Cr.P.C. Often the

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complainant/prosecution witnesses or the accused may have to travel across the State to attend the criminal proceedings before a jurisdictional court. In some cases to reach the venue of the trial court, a complainant or an accused may have to travel across several States. Likewise, witnesses too may also have to travel long distances, in order to depose before the jurisdictional court. If plea of inconvenience for transferring the cases from one court to another, on the basis of time taken to travel to the Court conducting the criminal trial is accepted, the provisions contained in the Criminal Procedure Code earmarking the courts having jurisdiction to try cases would be rendered meaningless. Convenience or inconvenience are inconsequential so far as the mandate of law is concerned. In case ***Bhiaru Ram & Ors vs Central Bureau of Investigation: 2010 (3) RCR (Criminal) 929***, the transfer was sought from one State to another on the plea of inconvenience. The Supreme Court held that such case cannot be transferred on the ground of inconvenience unless there was failure of justice. The said case has its own peculiar facts and is of help to the petitioner.

7. Keeping in view the above, this Court does not find any ground for transferring the case, as the apprehension or inconvenience on the basis of which petitioner is seeking transfer has no basis. Present petition is without merit and stands dismissed accordingly.

03.09.2024

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**(GURBIR SINGH)
JUDGE****Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No**