

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

129

CRM-M-5475-2024

Date of decision: 06.02.2024

Lalit Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.K. Khosla, Sr. Advocate with
Mr. Sarvesh Malik, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking quashing of order dated 29.01.2024 (Annexure P-4) whereby his application for transfer of two cases titled as 'State of Haryana Vs. Narender etc.' bearing CIS No.SC/46/2018 and 'State of Haryana Vs. A (name withheld) (CCL)' bearing CIS No.SC/3872/2018, both arising out of the same FIR No.110 dated 18.09.2017 under Sections 148, 149, 302, 323, 307 and 452 of the IPC and Section 25 of the Arms Act, 1959 registered at Police Station Kheri Pul, Faridabad, was dismissed.

2. Learned senior counsel appearing for the petitioner inter alia contends that based on a complaint filed by the petitioner, an FIR was registered against the respondent accused under various sections of the Indian Penal Code, 1860 and Arms Act. Following the investigation, the police presented challan against 28 persons who are presently facing trial before the learned Trial Court. It has been asserted by learned senior counsel that the petitioner and his family have been facing unwarranted harassment from the respondent accused who yield

considerable influence in the area. To support his submissions, he has draw the attention of this Court to Annexure P-2 to urge that the Duty Magistrate despite not being the Area Magistrate, ordered the registration of a cross FIR against the petitioner which was subsequently quashed by the learned Sessions Judge. Furthermore, It has been contended by the learned senior counsel that the trial of the case in question has been transferred to a Presiding Officer who belongs to the same native area as that of the local MLA, who is associated with the accused and helping the latter. Thus, there is a genuine apprehension that the accused with the help of some "touts" may influence the Presiding Officer. Therefore, a prayer has been made that the trial of the case be transferred to another Court. Additionally, it has also been submitted that although the Presiding Officer has given his 'no objection' to the transfer of the case to another Court, learned Sessions Judge, Faridabad has erroneously dismissed his application seeking transfer vide order dated 29.01.2024 (Annexure P-4).

3. On a pointed query put to the learned senior counsel qua the stage of the trial, he has informed the Court that the case is presently at the stage of defence evidence.

4. I have heard learned senior counsel and perused the relevant material on record.

5. It would be relevant to notice that not only have the prosecution witnesses been examined but the trial is now nearing completion as it is now at the stage of defence evidence. It is a well established position of law that a litigant cannot dictate the selection of any preferred Court. No doubt, Section 407 of the Cr.P.C. does

empower the Court to transfer a case, however, at the same time such discretion is to be exercised based on the existence of a “bias” or a “likelihood of bias” evident in the factual and circumstantial context of the case.

6. However, without any substantial evidence or material on record and solely based on the suspicion of the petitioner that a Presiding Officer could be influenced, it would not at all be justified to accede to the prayer of the petitioner and transfer the trial at such an advance stage. Mere suspicion without any cogent evidence, thus, cannot be a ground to transfer the trial of the case.

7. Accordingly, the instant petition is hereby dismissed.

06.02.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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