

CRM-M-32253 of 2018

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-32253 of 2018
Date of decision : January 30, 2024

Joginder SinghPetitioner
VERSUS
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Pradeep Virk, Advocate, for the petitioner
Mr. Luvinder Sofat, DAG, Punjab

KULDEEP TIWARI,J. (ORAL)

1. The petitioner, who is about 82 years old, approached this Court, through the instant petition, filed under Section 407 Cr.P.C., for transfer of criminal case registered vide FIR No. 29 dated 8.4.2010, under Section 295-A IPC at Police Station E Division, Amritsar City, which is pending for adjudication before the court of learned Chief Judicial Magistrate, Amritsar, to the competent court in the U.T. Chandigarh.
2. Before considering the prayer for transfer, it would be appropriate to first deal with the facts of the present case in brief.
3. The instant FIR was registered against the petitioner on a complaint moved by Shiromani Gurudwara Prabhandak Committee, Amritsar, on 8.4.2010, in which the allegations as alleged against the petitioner are that he has made derogatory

remarks against Sri Guru Granth Sahib Ji, basic tenets of Sikhism, and also against the Head Priests, in his capacity as Editor of Rozana Spokesman Newspaper. It is further alleged that the petitioner with the malicious intention insulted the religious feelings of the Sikh community. The aforesaid complaint was also sent to the then Chief Minister of Punjab, and was subsequently forwarded by the office of Chief Minister, Punjab, to the learned Advocate General, Punjab, and on the basis of a legal opinion, as rendered by the learned Advocate General, Punjab, the present FIR was registered. Immediately after registration of the FIR, the petitioner approached this Court by filing CRM-M-2641 of 2012, seeking transfer of criminal case, on the ground that he has threat to his life at the hands of Sikh radicals, and also on the ground of his heart ailment. However, the same was dismissed as withdrawn by the petitioner on dated 29.1.2013. After completion of the investigation, the final report was filed, and the petitioner was granted exemption for his personal appearance before the learned trial court concerned, and the prosecution evidence was recorded in his absence. Vide order dated 13.7.2018, the prosecution evidence was closed by the learned Chief Judicial Magistrate, Amritsar. Statement of the petitioner under Section 313 Cr.P.C. was also recorded on dated 31.7.2013. Thereupon, the petitioner has again filed the instant petition under Section 407 Cr.P.C., seeking transfer of the case.

4. During the pendency of this petition, this Court vide order dated 15.3.2023, directed the Commissioner of Police, Amritsar to decide the representation dated 6.3.2023, as submitted by the wife of the petitioner within a period of three weeks, so as to decide the issue pertaining to the transfer of the trial, based upon the threat perception, as raised by the petitioner. The representation was duly considered, and thereafter, through reply dated 11.4.2023, filed by way of affidavit of Sh. Surinder Singh, PPS, Assistant Commissioner of Police, Central, Amritsar, it was mentioned that the threat perception, as raised by the petitioner, is found to be genuine and a serious one, and the State of Punjab has given its consent to transfer the trial to any district, other than Amritsar, in continuation of the trial from its present stage.

5. This Court has examined the reply dated 11.4.2023, wherein, a threat perception *qua* the present petitioner was found to be genuine, and considering the fact that the prosecution witnesses have already been examined, no prejudice will be caused to the prosecution in the eventuality of the transfer of the case from Courts in Amritsar, to the territorial jurisdiction of U.T. Chandigarh. During the course of arguments, consent was also given by the State of Punjab for transfer of the matter. The relevant extract is read as under:-

“8. That it is submitted that the present case involves religious sentiments of Sikh religion at large as the allegations levelled in this case against the present

petitioner Joginder Singh are extremely serious in nature as the complainant had levelled serious allegations against the present petitioner Joginder Singh which are find mentioned as above. Therefore, resentment in the mind of representatives of S.G.P.C. as well as other various Sikh organizations including radical groups still continues against the present petitioner. There is apprehension of danger to life of the present petitioner Joginder Singh if he comes to Amritsar for attending Court proceedings, which could disturb law and order and it could also affect trial of the aforesaid case. Furthermore, the present petitioner is about 82 years old having some old age health issues.

9. That it is submitted that therefore taking into consideration all the aforesaid facts i.e. present status of trial of the aforesaid case FIR No. 29/2010 (supra) which is at the stage of defence evidence, coupled with health relating issues of the petitioner and threat perception to the present petitioner in the wake of the crime committed by him whereby religious sentiments of Sikh community at large and various Sikh organizations in particular got hurt, it would be in the interest of natural justice, if trial of the aforesaid case FIR no. 29, dated 08.04.2010, under Section 295-A IPC, Police Station E-Division, Amritsar City is transferred to any other Court outside Amritsar for the purpose of defence evidence. The aforesaid representation bearing No. 12925-CD-1 dated 24.03.2023 has been decided on 08.04.2023 by the Commissioner of Police, Amritsar.”

6. In view of the above discussion, the instant petition is **allowed**. The learned District & Sessions Judge, Amritsar is directed to send the complete record of the present case, to the

learned District & Sessions Judge, Chandigarh, who may thereupon, entrust the case to the court of competent jurisdiction, under his domain, from the stage of trial already reached at Court in Amritsar, in accordance with law.

7. The parties are directed to appear before the learned District & Sessions Judge, Chandigarh on dated 22.3.2024.
8. Copy of this order be sent forthwith the learned District & Sessions Judges, concerned.

January 30, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No