



CRM-M-34509-2021(O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34509-2021 (O&M)
Date of decision: 01.10.2024

VARUN ROHILLA

... PETITIONER

V/s

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sandeep Kotla, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Nitin Meel, Advocate
for respondent No.2.

SUMEET GOEL, J.

1. Present criminal miscellaneous petition on behalf of the accused is filed, seeking transfer of case bearing FIR No.90 dated 06.08.2017, registered under Sections 406/498-A of the IPC at Police Station City-II, Abohar, District Fazilka, Punjab, from Abohar to Chandigarh or any other District in State of Haryana.

2. Facts germane to the adjudication of the present case are that the marriage of the petitioner was performed with the sister of the complainant on 25.11.2008. After marriage, the parties were living at Bahadurgarh, District Jhajjar, Haryana. A female child was born out of their wedlock on 09.08.2010. Due to disputes between the couple the wife of the petitioner along with her minor daughter

**CRM-M-34509-2021(O&M)**

2

came to her parental home in Abohar, District Fazilka, Punjab. The wife of the petitioner made a complaint against the petitioner and her in-laws on 09.02.2017, in the office of DSP Abohar. The wife of the petitioner was diagnosed with blood cancer and was shifted to AIIMS, New Delhi on 15.02.2017, where unfortunately she died on 14.03.2017. The above-mentioned FIR subject matter of the present petition, was lodged against the petitioner in pursuance of the complaint made by the wife of the petitioner.

3. I have heard the counsel for the parties and have gone through the case records carefully.

4. The core of the grounds pleaded by the petitioner, seeking transfer of the trial in above-mentioned case out of District Fazilka, is that his brother-in-law, who is pursuing the case lodged by his deceased wife against him, is an advocate and an active member of the bar of Abohar, District Fazilka, where the case is pending. It is alleged that the brother-in-law of the petitioner (respondent No.2) is also the media correspondent of the local newspaper and the Ex-President of Youth Congress, Punjab and as such he succeeded in getting the above-mentioned FIR case lodged against the petitioner and his family. It is averred that respondent No.2 pressurized the Presiding Officer of the trial Court as well as learned Additional District Judge, Fazilka, and got the bail application of the petitioner dismissed in the case. It is averred that when the petitioner got the bail from this Court in the case, he was threatened by respondent

**CRM-M-34509-2021(O&M)**

3

No.2 that he will take the case up to the Hon'ble Supreme Court, and the entire family of the petitioner would not be spared. It is alleged that the respondent No.2 along with 4-5 muscle men threatened the petitioner and his brother by showing the pistol when they visited Abohar to appear in Court. Respondent No.2 along with his father tried to run over the petitioner with their vehicle at DSP Office, Abohar. It is alleged that a complaint dated 09.04.2021 to the police was made in this regard, a copy whereof is annexed as (Annexure P-4) to the petition. It is averred that the father of the petitioner is suffering from several medical ailments and is not in a position to attend the Court at Abohar due to the long distance.

5. In reply to the petition on behalf of respondent No.2 the allegations levelled by the petitioner are all denied and it is submitted that the father of the petitioner visited the Abohar Court only once on 02.03.2021 and thereafter, he has never visited Abohar. As such it is submitted that the story put forth by the petitioner regarding the attempt by respondent No.2 to run over the petitioner and his father by vehicle at the DSP Office is false and concocted. It is submitted that it is highly improbable that the respondent No.2 will make such an attempt in the compound of the DSP Office. The allegations of the petitioner that he and his brother were threatened by showing the pistol are denied as being false and it is submitted that the brother of the petitioner is neither the accused nor a witness in the case, therefore, he never visited Abohar. It is pleaded that all the witnesses

**CRM-M-34509-2021(O&M)**

4

in the case are based at Abohar and in case the trial is transferred to a far-flung place, it would be onerous to the witnesses and will hamper the fair trial. It is submitted that the present petition on behalf of the petitioner is only a tactic to delay the outcome of the trial and as such is liable to be dismissed.

6. The State in its reply to the petition inter-alia stated that the wife of the petitioner (since deceased) during the course of investigation in the case recorded her statement that her husband (petitioner) mixed some poisonous substance or some medicine in her food, and he himself did not eat that food. Due to this, her medical condition deteriorated and her platelets got low. Thereafter, she was treated by her parents and it came to their knowledge that she was suffering from blood cancer. It is submitted that during the course of the investigation of the case, one of the accused namely Vasudha Rohilla was declared innocent. Accused Ramesh Rohilla and Kusum Rohilla were granted anticipatory bail by this Court in the case. The petitioner was arrested in the present case. Regarding the complaint dated 09.04.2021 annexed as (Annexure P-4) to the petition, allegedly made by the petitioner, it is submitted that as per the record of the police, no such complaint has been received by the police. It is submitted that in connection with the allegations of the petitioner regarding the threat to his life and liberty at the hands of respondent No.2, the petitioner was called to join inquiry, but he did not come present, rather sent a typed statement in Hindi on WhatsApp. Except

**CRM-M-34509-2021(O&M)**

5

this bald statement of the petitioner, no other proof has been submitted by him to the police. As such the police after inquiry concluded that there was no threat to the life of the petitioner at the hands of respondent No.2.

7. After giving my thoughtful consideration to the arguments advanced by the parties in line with their pleadings in the matter, I am of the considered opinion that the petitioner has failed to make out a case of transfer of the trial in the above-mentioned FIR lodged against him from the Court at Abohar to any other place. The allegations made by the petitioner that the Presiding Officer of the trial Court as well as the Additional Sessions Judge, while dismissing his bail applications acted under the influence of respondent No.2 are wholly false, ill-conceived, without any substance apart from being outrageous to the majesty of law and Courts. The said allegations on the part of the petitioner without their being any material or complaint on the part of the petitioner to any of the authority in this regard, are ex-facie malicious, made with an intent to impute the motive, which is otherwise not existent, with a sheer intent to sensationalize the issue unlawfully. The wild allegations made by the petitioner have the tendency to pollute the stream of justice, and as such are liable to be discarded outrightly. The fact that the father of the petitioner has already been exempted from his personal appearance during trial before the Court at Abohar, itself belies the stand taken by the petitioner.

**CRM-M-34509-2021(O&M)**

6

8. The conduct of the petitioner further shows that he has the tendency and audacity to create a document (Annexure P-4), with the allegations that the said purported complaint, spelling out an alleged threat to his life was given by him to the police. Despite the stand taken by the State in its reply that no such complaint was received by them, the petitioner has not placed any document on record to show the receipt of the said complaint by the police. Still, further, the action of the petitioner not appearing before the police in connection with the inquiry of his own allegations, made against respondent No.2, makes it clear that the grounds seeking transfer of the case are without any element of truth.

9. The credentials of respondent No.2 being an advocate and ex-president of the youth wing of some political party do not seem to have affected the investigation and trial of the case in any manner prejudicial to the interest of the petitioner. The fact that one of the accused in the case has been declared innocent by the police during the investigation and that two of the accused have been granted anticipatory bail in the case, clearly belies the allegations made by the petitioner that respondent No.2 has exercised or is in capacity to exercise any influence in the case. This Court in case titled as ***D.A.V. College vs D.M. Sharma, 2005(1) RCR Civil 71***, held as under:

“6. Having heard learned counsel for the parties and perusing the record and judgments of this Court, I am of the considered view that this petition is liable to be dismissed because the



principal argument raised by the learned counsel for the petitioner is untenable namely that if the litigation has been initiated by an Advocate or against the Advocate that alone would be a sufficient ground for seeking transfer of proceedings under Section 24 of the Code. This argument if accepted would have pernicious and deleterious effect on the administration of justice. In a given case there may be the possibility of establishing some relationship of a particular Advocate with the Presiding Officer and the same may constitute a ground for transfer but merely because the litigant is a practising Advocate without anything more would not constitute a valid ground for transfer of the case. If such a principle is accepted, then all cases concerning members of the legal fraternity have to be contested at a place other than the one where the member of the Bar is practising. Such a general ostracism of legal fraternity is impermissible. The judgments of this Court which has been cited by the learned counsel do not lay down any Rule of law warranting acceptance of the prayer made.”

10. This Court in case titled as ***Harmeet Singh vs. Supriya – (CRM-M 56217 of 2022)***, while dealing with the false allegations made part and basis for seeking transfer of the trial in a case, held as under:

“Provisions of Section 407 of the Cr.P.C. being based on the principle of equity, it was incumbent upon the petitioner to do the equity himself first in order to seek equitable relief. The petitioner in view of his averments in the transfer petitions, has clearly not come to the Court with clean hands. It is trite law that a petition containing inaccurate averments, only to



CRM-M-34509-2021(O&M)

8

achieve ulterior purpose, amounts to an abuse of process of Court.”

11. The above findings returned by this Court, apply to the facts of the present case also with equal vigor. This Court in the case of ***Harmeet Singh*** (supra), relied upon the judgment passed by the Hon’ble Supreme Court in case the of ***V. Chandrasekaran and Anr. Versus Administrative Officer and Ors., 2012(4) RCR (Civil) 588***, wherein it is held as under:

“34. The appellants have not approached the Court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a Court of Equity, in the exercise of its extraordinary jurisdiction, it is expected that he will approach the said Court not only with clean hands but also with a clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim "Jure Naturae Aequum Est Neminem cum Alterius Detrimeto Et Injuria Fieri Locupletiolem", means that it is a law of nature that one should not be enriched by causing loss or injury to another. (Vide: The Ramjas Foundation &Ors. v. Union of India &Ors., AIR 1993 Supreme Court 852; Nooruddin v. (Dr.) K.L. Anand, 1995(2) R.R.R. 556 : (1995) 1 SCC 242; and Ramniklal N. Bhutta &Anr. v. State of Maharashtra &Ors., AIR 1997 Supreme Court 1236).

35. The judicial process cannot become an instrument of oppression or abuse, or a means in the process of the Court to subvert justice, for the reason that the Court exercises its jurisdiction, only in furtherance of justice. The interests of justice and public interest coalesce, and therefore, they are very often one and the same. A petition or an affidavit containing a misleading and/or an inaccurate statement, only



to achieve an ulterior purpose, amounts to an abuse of process of the Court.

36. In Dalip Singh v. State of U.P. &Ors., (2010) 2 SCC 114, this Court noticed an altogether new creed of litigants, that is, dishonest litigants and went on to strongly deprecate their conduct by observing that, the truth constitutes an integral part of the justice delivery system. The quest for personal gain has become so intense that those involved in litigation do not hesitate to seek shelter of falsehood, misrepresentation and suppression of facts in the course of Court proceedings. A litigant who attempts to pollute the stream of justice, or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

37. The truth should be the guiding star in the entire judicial process. "Every trial is a voyage of discovery in which truth is the quest". An action at law is not a game of chess, therefore, a litigant cannot prevaricate and take inconsistent positions. It is one of those fundamental principles of jurisprudence that litigants must observe total clarity and candour in their pleadings. (Vide: Ritesh Tewari &Anr. v. State of Uttar Pradesh &Ors., (2010) 10 SCC 677; and Amar Singh v. Union of India, 2011(5) RCR (Civil) 386 : (2011) 7 SCC 69)."

12. In view of these findings and the fact that the petitioner has taken deliberately false pleas with an intent to gain undue advantage in the matter, the present petition seeking transfer of the above-mentioned FIR case from the Court at Abohar, District Fazilka is dismissed.

CRM-M-34509-2021(O&M)

13. Observations made hereinabove, are intended for disposal of the petition in hand & shall not be construed as any kind of opinion on merits thereof.
14. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

October 01, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No