



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-41096-2024

Date of decision: August 23rd, 2024

Sanjeev Goyal

.....Petitioner

Versus

Harish Rai Dhanda and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Arjun Shukla, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J.

Prayer in the instant petition is for setting aside the order dated 02.08.2024 (Annexure P-1) passed by learned Sessions Judge, Ludhiana, whereby Transfer Application filed by the petitioner in case bearing No.CRM/1613/2024 under Section 340 Cr.P.C. has been dismissed.

2. Learned counsel for the petitioner submits that he was the plaintiff in a suit concerning some disputed land, which was ultimately decreed in his favor. Following this, the respondents initiated a third-party appeal challenging the said decree. In the course of this appeal, the respondents submitted false affidavit before the Court, thereby engaging in the act of perjury. Consequently, the petitioner filed an application under Section 340 of Cr.P.C. before the learned Presiding Officer, seeking appropriate legal action against the respondents for perjury.

3. Learned counsel has argued that however, instead of deciding on the application of the petitioner, the Presiding Officer

concerned informed the petitioner that a final order on the application filed under Section 340 Cr.P.C. would be deferred until the hearing of the respondents' third-party appeal was concluded. Learned counsel for the petitioner further contends that this conduct by the learned Presiding Officer raised a significant and reasonable apprehension in his mind that justice might not be delivered impartially in his case. As a result, the petitioner felt compelled to file a formal complaint against the concerned Presiding Officer and subsequently approached the learned District and Sessions Judge, Ludhiana, requesting for transfer of his case to another Court to ensure a fair trial.

4. Learned counsel for the petitioner further submits that the learned District and Sessions Judge, Ludhiana, dismissed his application for transfer without providing any cogent or substantial reasons in the impugned order dated 02.08.2024 annexed as Annexure P-1. This dismissal, coupled with the subsequent rejection of the two applications filed by the petitioner under Section 340 Cr.P.C. by the learned Presiding Officer, has only deepened the concern of the petitioner that his fears of bias and partiality are justified.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. No doubt, this Court does possess powers to transfer a case from one Court to another, but such discretion can only be exercised when there exists a genuine and reasonable apprehension on the part of a litigant that justice will not be served before the Court concerned. It is well settled that a criminal case cannot be transferred merely on the basis of unsubstantiated fears or speculative anxieties of a person of a party; these concerns must be supported by objective and reasonable

grounds. It also needs to be emphasized that this Court cannot be expected to base its decisions on emotional pleas from a particularly sensitive litigant, nor can it accommodate the personal convenience of one party to the detriment of the legal process. In the present case, the petitioner has failed to substantiate any reasonable basis for his apprehension that would justify the transfer of his case. Furthermore, it is pertinent to note that the applications moved by the petitioner under Sections 340 Cr.P.C. are directly related to the third-party appeal filed by the respondents, which is still pending before the same Presiding Officer.

7. The mere fact that an unfavorable order was passed against the petitioner does not, in itself, imply any judicial bias or unfairness on the part of the Presiding Officer or the learned District and Sessions Judge. In the circumstances, the instant petition is clearly devoid of merit and does not deserve to be allowed.

8. Accordingly, the petition stands dismissed.

9. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

August 23rd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No