



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-44056-2022

Date of decision: 01.10.2024

Kuldip Kaur

....Petitioner

V/s

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Veneet Sharma, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Adhiraj Singh, AAG Punjab.
None for respondent No.3.

SUMEET GOEL, J. (Oral)

1. The instant petition has been preferred by the petitioner (who is the mother-in-law of the complainant of the FIR) for transfer of FIR No.869 dated 14.09.2021 registered under Sections 323, 406, 420, 498-A, 506 and 354 of the IPC at Police Station Sadar Karnal, District Karnal (Haryana) to District Amritsar, Punjab. The gravamen of the FIR in question is the dowry harassment and beatings etc. alleged to have been caused at the end of the petitioner and the other in-laws of the complainant.
2. Learned counsel for the petitioner has argued that the marriage of the son of the petitioner and respondent No.3 was solemnized in the year 2006, whereinafter a daughter was also born out of the said wedlock; the son of the petitioner and respondent No.3 (alongwith their daughter) went to England in the year 2010 and resided there till 2016 & whenever they were in India, they were living in Amritsar. Thus, it has been iterated that no cause of action arose at Karnal (Haryana) so as to enable the respondent No.3 to have the FIR in question registered at Karnal (Haryana). Learned

counsel has further submitted that the respondent No.3 filed a complaint



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dated 17.07.2021 to Amritsar Police and hence the matter ought to have been investigated at Amritsar itself. Learned counsel has further argued that the FIR in question has been got registered by respondent No.3 under the influence of one Nirmal Singh, Advocate, who is a practicing lawyer at District Courts, Karnal and as per the information received by her, he also remained President of the District Bar Association, Karnal (Haryana) for two terms and, it is on this account, that the petitioner is unable to have appropriate recourse to legal representation at Karnal (Haryana). Learned counsel has further argued that the petitioner is a lady aged about 77 years and it is neither possible for her to go and repeatedly join investigation/proceedings at Karnal and/or pursue her remedy(s) at Karnal. It has been further iterated that in case trial proceedings are to be undertaken at Karnal, it would not be possible for the petitioner to travel to Karnal from Amritsar on each and every date of hearing as she would be required to travel a distance of about 350 kilometers. Thus, grant of the petition in hand is pressed for.

3. Learned counsel appearing for respondent No.1-State of Haryana has opposed the plea by arguing that the FIR in question has been correctly registered at Karnal, Haryana and hence there is no cause with the petitioner to seek transfer thereof to Amritsar (Punjab). Learned State counsel has further submitted that, in any case, the plea(s) raised by the petitioner regarding the veracity of jurisdiction of Karnal Police shall be gone into at the appropriate stage of trial. Therefore, dismissal of the instant petition is sought for.

4. Learned counsel for the State of Punjab has submitted that, as of today, it is the Police at Karnal (Haryana) that are seized of the FIR in



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question and the State of Punjab shall abide by the direction(s) as may be issued by this Court.

5. Notice of the instant petition was served upon respondent No.3 but none had caused appearance on behalf of the said respondent on 15.05.2024. Same was the position on 09.07.2024, 25.07.2024, 19.09.2024 as also today i.e. 01.10.2024.

6. I have heard the learned counsel for the rival parties and have perused the record with their assistance.

7. The prime edifice of challenge is that the Police at Karnal (Haryana) have no jurisdiction to register the FIR in question; investigate the same as also proceed further, primarily, for the reason that respondent No.3 and son of the petitioner, after their marriage, remained in Amritsar or in England but never resided at Karnal together. It is, however, not in dispute that the parental home of respondent No.3-wife is in Karnal (Haryana). A perusal of the complaint dated 17.07.2021, stated to have been made by respondent No.3 before the Amritsar Police, reflects that the respondent No.3 had made allegations of dowry harassment etc. and had even stated in the complaint that she was going to her parental home out of fear.

7.1 It would be apposite herein to refer to a judgment passed by the Hon'ble Supreme Court in the case titled as ***Priya Indoria vs. State of Karnataka and ors. etc., 2023 INSC 1008***; relevant whereof reads as under:

*“48. Another issue that calls for reiteration is, whether, the ordinary place of inquiry and trial would include the place where the complainant-wife resides after being separated from her husband. The position of law regarding the ordinary place of investigation and trial as per Section 177 of the CrPC, 1973 especially in matrimonial cases alleging cruelty and domestic violence, alleged by the wife, has advanced from the view held in the case of ***State of Bihar vs. Deokaran Nenshi, (1972) 2 SCC****



*890; Sujata Mukherjee (Smt.) vs. Prashant Kumar Mukherjee, (1997) 5 SCC 30; Y. Abraham Ajith vs. Inspector of Police, Chennai, (2004) 8 SCC 100, Ramesh vs. State of T.N. (2005) 3 SCC 507; Manish Ratan vs. State of M.P., (2007) 1 SCC 262 that if none of the ingredients constituting the offence can be said to have occurred within the local jurisdiction, that jurisdiction cannot be the ordinary place of investigation and trial of a matrimonial offence. A three judge Bench of this Court has however clarified in **Rupali Devi vs. State of U.P., (2019) 5 SCC 384** (Rupali Devi) that adverse effects on mental health of the wife even while residing in her parental home on account of the acts committed in the matrimonial home would amount to commission of cruelty within the meaning of Section 498A at the parental home. It was held that the Courts at the place where the wife takes shelter after leaving or being driven away from the matrimonial home on account of acts of cruelty committed by the husband or his relatives, would, depending on the factual situation, also have jurisdiction to entertain a complaint alleging commission of offences under Section 498-A of the IPC.”*

7.2. It is thus, indubitable, that it cannot be said at this stage that the Karnal Police did not have requisite jurisdiction to register the FIR in question, investigate the same as also proceed therein as per law. Accordingly, this plea raised by the petitioner, deserves to be rejected for the nonce.

8. Learned counsel for the petitioner, during the course of hearing, has very fairly submitted that the ground pleaded in the petition that the FIR in question is being unfairly looked into under the influence of one Shri Nirmal Singh, Advocate and that the petitioner is unable to have recourse to legal assistance on account of his influence is no longer available, with the same vigour as it was earlier, as the said Shri Nirmal Singh, Advocate has expired on 23.09.2024. In view of the same, this plea is rendered otiose and hence does not call for ratiocination by this Court.



9. The plea raised on behalf of the petitioner that she would suffer general inconvenience on account of her being aged 77 years, no adult male member being available in her family to accompany her from Amritsar to Karnal to attend each and every date of hearing & the huge distance of about 350 kilometers from Amritsar to Karnal, cannot be considered to be a ground, by itself, to transfer the FIR in question from Karnal (Haryana) to Amritsar (Punjab). It is not the parameter of inconvenience of the petitioner-accused alone that has to be considered; rather convenience must be adjudged on the touchstone of relative convenience and difficulties of all parties concerned in the process i.e. the accused, victim/complainant, witnesses and State (prosecution). In other words; the concept of convenience herein entails familial triangulation of comparative convenience of accused, victim/complainant and the Society at large (represented by State/prosecuting agency). The comparative inconvenience and hardships likely to be caused to all concerned is a factor that should indubitably be borne in mind while considering a plea for transfer of the FIR. Further, manageable and real time solutions can be undertaken to mitigate this seeming difficulty/inconvenience being faced by the petitioner-accused by granting personal presence exemption to her keeping in view her age and the distance between Karnal (Haryana) to Amritsar (Punjab).

10. In view of the above discussion, it is directed as follows:

(I) The petition; seeking transfer of FIR No.869 dated 14.09.2021 registered under Sections 323, 406, 420, 498-A, 506 and 354 of IPC at Police Station Sadar Karnal, District Karnal (Haryana) to District Amritsar, Punjab; is dismissed for the nonce.



(II) Keeping in view the totality of factual matrix of the matter especially the fact(s) that the petitioner is a lady aged about 77 years & she would be required to travel a distance of about 350 kilometers from Amritsar to Karnal to attend Court proceedings, the petitioner is granted exemption from personal appearance before the trial Court/concerned Court subject to the following conditions:-

- (i) she will be represented by a counsel;
- (ii) she will not delay/stall the proceedings of the trial Court;
- (iii) she will not dispute her identity as accused;
- (iv) she will have no objection if the prosecution evidence is recorded in her absence but in presence of her counsel;
- (v) she will appear before the trial Court as and when required by the trial Court and any other condition which the trial Court/concerned Court may impose.

The petitioner shall file an affidavit before the trial Court/concerned Court stipulating above conditions.

(III) Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the Police/trial Court shall proceed further, in accordance with law, without being influenced with this order.

(IV) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

October 01, 2024
Ajay

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