



129

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41875-2024

Date of decision: 28.08.2024

Sxxxxx

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Neha Jain, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking transfer of case in FIR No.0061 dated 07.08.2019 under Section 6 of the POCSO Act, 2012 registered at Police Station Women Police Station Ambala pending in the Court of learned Additional Sessions Judge, Ambala to the competent Court of jurisdiction at Rupnagar.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is living at Rupnagar along with her minor daughter at her parental house. It is further contended that the distance between Ambala and Rupnagar is 81 km and as such, it is very difficult for her to travel to Ambala to pursue the case in question as there is nobody to accompany her.

3. Further, learned counsel for the petitioner relies upon the judgments rendered by the Hon'ble Supreme Court in ***Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396*** and ***Rajani Kishor Pardeshi Vs.***

Kishor Babulal Pardeshi, (2005) 12 SCC 237 to contend that while deciding



CRM-M-41875-2024

-2-

the transfer applications, more weightage and consideration should be given to the convenience of the female litigants and transfer of legal proceedings from one Court to another Court should ordinarily be allowed in order to avoid undue hardship to the female litigants.

4. Having heard learned counsel for the petitioner, this Court is deciding the case in limine without issuing notice to respondent No.2, in order to save litigation cost of respondent No.2 and judicial time of the Court.

5. A two Judge Bench of the Hon'ble Supreme Court dealt with power of the Court to transfer proceedings under Sections 24 and 25 of the Civil Procedure Code in ***Kulwinder Kaur @ Kulwinder Gurcharan Singh Vs. Kandi Friends Education Trust, AIR 2008 SC 1333***, wherein it was held that the power to make such transfers is discretionary in nature and hence, it would be unwise to attempt to shackle it with a blanket formula uniformly applicable to all situations. However, it cannot be denied that the power must be used with abundance of care and caution. Further a three Judge Bench of the Hon'ble Supreme Court in ***Gana Saraswathi Vs. H. Raghu Prasad, (2000) 10 SCC 277*** had observed that in the interest of justice, the doctrine of forum non-conveniens can also be extended to matrimonial proceedings. It was stated that Courts usually allow transfer petitions in such cases to ensure that the wife does not suffer on account of not being able to participate in the proceedings.

6. A two Judge Bench of the Hon'ble Supreme Court in ***N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199*** has held as under:-

“9. The cardinal principle for exercise of power under Section 24 of the Code of Civil Procedure is that the ends of justice should



demand the transfer of the suit, appeal or other proceeding. In matrimonial matters, wherever Courts are called upon to consider the plea of transfer, the Courts have to take into consideration the economic soundness of both the parties, the social strata of the spouses and their behavioural pattern, their standard of life prior to the marriage and subsequent thereto and the circumstances of both the parties in eking out their livelihood and under whose protective umbrella they are seeking their sustenance to life. Given the prevailing socio-economic paradigm in the Indian society, generally, it is the wife's convenience which must be looked at while considering transfer.

10. Further, when two or more proceedings are pending in different Courts between the same parties which raise common question of fact and law, and when the decisions in the cases are interdependent, it is desirable that they should be tried together by the same Judge so as to avoid multiplicity in trial of the same issues and conflict of decisions.”

7. In the present case, the petitioner has to look after her minor daughter, who is residing with her and also she has no means to defend her case at Ambala as there is nobody to accompany her. Apart from this, she apprehends threat at the hands of respondent No.2 as she has been previously threatened by him with dire consequences. Furthermore, distance of Ambala from Rupnagar is 81 km approximately and, therefore, it would cause immense hardship to the petitioner, much less, she will have to bear the transportation expenses to attend the Court proceedings on each and every date.

8. In view of the law settled by the Hon'ble Supreme Court in ***Sumita Singh***'s case (supra), ***Rajani Kishor Pardeshi***'s case (supra) and ***N.C.V.***



CRM-M-41875-2024

-4-

Aishwarya's case (supra), present petition is disposed of with the following directions:-

(a) In case, the petitioner moves an appropriate application for joining the trial through Video Conferencing/Hybrid mode, the same shall be considered and decided in accordance with High Court Rules framed in this regard as well as the judgment rendered by this Court in *Sukhmanjit Singh Dhindsa vs. State of Punjab and others 2024(1) R.C.R.(Criminal) 636*.

10. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

28.08.2024

Neha

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