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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43703-2024 (O&M)
Date of decision: 10.09.2024

Parveen Kumar and others

... Petitioners

Vs.

Pxxx

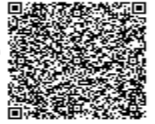
... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajat Sheokand, Advocate
for the petitioners.

HARPREET SINGH BRAR, J. (ORAL)

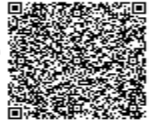
1. The present petition has been filed under Section 447 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking transfer of the proceedings arising out of FIR No.41 dated 26.01.2022 under Sections 323, 354, 377, 406, 498-A, 506 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Chandimandir, District Panchkula, bearing case No.CHI/828/2022, to the Court of competent jurisdiction in District Sonipat or District Panipat.
2. Learned counsel for the petitioners, *inter alia*, contends that registration of FIR (*supra*) at Panchkula is clearly an abuse of process of



law. The petitioners are residing in District Sonipat and the Court at Panchkula has no jurisdiction to try the case, as entire dispute took place in the matrimonial home of the respondent in District Sonipat. The respondent left the company of petitioner No.1 in the year 2020 and in the month of March, 2021, she started residing at Panchkula, as discernible from the petition filed under Section 125 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') (Annexure P-1). The petitioners made earnest efforts through common friends and relatives to persuade the respondent to return to her matrimonial home, however, she intentionally got registered the FIR (*supra*) at Panchkula just to wreak vengeance on the petitioners out of private and personal spite. Petitioner No.1 is working in Delhi Police and petitioners No.2 to 4 are residing in District Sonipat and attending the trial on each and every date of hearing before the Court at Panchkula would cause great inconvenience to them. In fact, the respondent was residing at her parental home in District Panipat. To substantiate the contentions made on behalf of the petitioners, learned counsel relies upon Aadhar Card of the respondent. As such, the petitioners pray for transfer of the trial of FIR (*supra*) from Panchkula to either Sonipat or Panipat

3. I have heard learned counsel for the petitioners and perused the record of the case file with his able assistance.

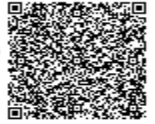
4. The Hon'ble Supreme Court in *Sumita Singh Vs. Kumar Sanjay and another, AIR 2002 SC 396* and *Rajani Kishor Pardeshi Vs.*



Kishor Babulal Pardeshi, (2005) 12 SCC 237, has held that while deciding 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.

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 the 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.

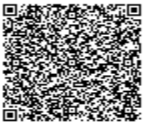
6. Further, a two Judge Bench of the Hon'ble Supreme Court in *N.C.V. Aishwarya Vs. A.S. Saravana Karthik Sha, 2022 SCC OnLine SC 1199* has held as under:-



“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. If the case bearing No.CHI/828/2022 is transferred at the behest of the petitioners, it will cause grave inconvenience to the respondent (wife of petitioner No.1), who is a female litigant and is pursuing other cases against the petitioners at Panchkula. Therefore, keeping in view the facts and circumstances of the case and also in view of the law settled by the Hon’ble Supreme Court in the cases referred to above, this Court finds no ground to transfer the proceedings of FIR (*supra*) from Panchkula to Sonipat/Panipat.



Accordingly, present petition is dismissed being devoid of any merit.

8. All the pending miscellaneous application(s), if any, shall stand disposed of.

9. In case, petitioners No.2 to 4 move an appropriate application before learned Court below seeking exemption of their personal appearance, learned trial Court shall decide the same in view of the ratio laid down by this Court in CRM-M-25963-2023 titled as *Suresh Kumar and another Vs. The State of Haryana and another, 2023 (2) Law Herald 1498.*

10.09.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No