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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45851-2024

Date of decision: 13.09.2024

RAKHI

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Sangwan, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 447 read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for transferring the criminal case No. CHI-555 of 2023 titled as '*State V/s Sahil*' arising out of FIR No. 206 dated 30.06.2023 registered under Sections 313 and 34 of Indian Penal Code (Section 313 and 34 of IPC deleted later on and Sections 323, 406, 498-A and 506 of IPC added later on), which is pending for 16.09.2024 in the court of learned Judicial Magistrate Ist Class, Charkhi Dadri to any other Judicial Magistrate/Family Court in District Mohindergarh.

2. Brief facts of the case are that petitioner and respondent No. 2- Sahil got married with each other on 11.03.2023 as per Hindu rites and ceremonies. However, matrimonial dispute ensued between the couple and petitioner-complainant filed the FIR(supra) against the private respondents.

3. Learned counsel for the petitioner *inter alia* contends that petitioner-complainant has lodged FIR No. Zero dated 29.06.2023 under Sections 313 and 34 of IPC but after registration of FIR, the police officials of Police Station Sadar Kanina, District Mohindergarh transferred the FIR and



investigation to SHO Police Station Charkhi Dadri. Learned counsel further contends that father of the petitioner is more than 60 years of age and a senior citizen and he cannot accompany her to the judicial Court at Charkhi Dadri and there is no other male member of the petitioner family who can take care of her so she alone has to visit the Courts at Charkhi Dadri. Whenever, the petitioner visits the Court Complex at Charkhi Dadri in connection with her case, the private respondents taunt her and misbehave with her and threaten her that in case she or her parents depose in the Court as witnesses, they would eliminate her and her parents. Moreover, she has to travel 70-80 kms approximately for attending the Court proceedings on every date of hearing and petitioner has no source of income to meet out the expenses on her visit to Charkhi Dadri and vice versa.

4. 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 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. Having heard learned counsel for the petitioner, this Court is deciding the case in limine without issuing notice to private respondents, in order to save litigation cost of private respondents and judicial time of the Court.



6. 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.

7. 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 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."

8. In the present case, there is no male member in the Family to accompany the petitioner-complainant, apart from her father, who is an old aged person of more than 60 years of age. Apart from this, she apprehends threat at the hands of private respondents as she has been previously threatened by them with dire consequences. Furthermore, distance of Mohindergarh and Charkhi Dadri is 70-80 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.

9. 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. 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 proceedings 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

13.09.2024
Ajay Goswami

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