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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49206-2023 (O&M)
Date of decision: 18.09.2024

Simarpreet Kaur and another

... Petitioners

Vs.

Prabhjit Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Gurneet Sagoo, Advocate and
Mr. Anshuman Pandey, Advocate
for the petitioners.

Mr. Lakhwinder Singh Mann, Advocate
for the respondent.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 407 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') read with Section 482 Cr.P.C. seeking transfer of the petition bearing No.MNT125/37/2023 titled as '*Prabhjit Singh Vs. Simarpreet Kaur and another*', filed under Section 125 Cr.P.C., pending in the Court of learned Principal Judge, Family Court, Ludhiana (Camp at Khanna) to the Court of competent jurisdiction at SAS Nagar (Mohali).



2. Learned counsel for the petitioners, *inter alia*, contends that marriage between mother of the petitioners and the respondent was solemnized on 26.02.1995 according to Sikh rites and rituals and out of this wedlock, two female children i.e. the petitioners were born. The respondent is 50 years of age and is father of the petitioners and he has filed a petition under Section 125 Cr.P.C. just to harass their mother, as a matrimonial dispute is going on between the respondent and mother of the petitioners and since 2008, she along with the petitioners is living separately from the respondent. It is further contended that the respondent is a troublesome person, due to which, the petitioners along with their mother shifted to SAS Nagar (Mohali) from Khanna and their mother, who is working in Bank of India, also got her job transferred from Khanna, District Ludhiana to SAS Nagar (Mohali). The petitioners are preparing for the competitive exams and they have no source of income and are fully dependent upon their mother.

3. Learned counsel for the petitioners further submits that it is very difficult for the petitioners to attend the proceedings before Family Court, Ludhiana (Camp at Khanna), as they have to travel from SAS Nagar (Mohali) to Khanna, District Ludhiana to pursue the petition under Section 125 Cr.P.C. and distance between SAS Nagar (Mohali) and Khanna, District Ludhiana is around 68 km approximately. Learned counsel submits that the petitioners would be satisfied, in case they are allowed to join the



proceedings through video conferencing.

4. Having heard learned counsel for the petitioners and in view of the limited prayer made by learned counsel for the petitioners, this Court is deciding the case *in limine* without issuing notice to the respondent, in order to save litigation cost of the respondent 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.

6. Petitioner No.1 is presently studying at Chandigarh and is preparing for competitive exams and petitioner No.2 is also pursuing her studies and is preparing for judicial exams. Further, distance from SAS Nagar (Mohali) to Khanna, District Ludhiana is around 68 km and it would cause undue hardship to the respondent, in case the petition under Section 125 Cr.P.C. is transferred to SAS Nagar (Mohali).

7. Keeping in view the facts and circumstances of the case, present petition is disposed of. In case, the petitioners move an appropriate



application for joining the proceedings through *Video Conferencing/Hybrid mode*, the same shall be considered and decided in accordance with High Court Rules and Orders, Model Rules on Video Conferencing, 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) RCR (Criminal) 636*.

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

[HARPREET SINGH BRAR]
JUDGE

18.09.2024
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No