



128 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-50443-2024 (O&M)

Date of decision: 14.10.2024

KANWARDEEP SINGH

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (ORAL)

1. The present petition has been filed under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 for quashing of the impugned order dated 21.05.2024 (Annexure P-9) passed by learned Judicial Magistrate Ist Class, Ludhiana and further the judgment dated 24.09.2024 passed by learned Additional Sessions Judge, Ludhiana (Annexure P-11) in FIR No. 160 dated 24.10.2014 registered under Sections 323, 324, 452, 506 and 34 of Indian Penal Code (Sections 354 and 509 of IPC added later on) at Police Station Model District Ludhiana City (Annexure P-1), whereby an application seeking permission for appearing through virtual mode as prosecution witness has been declined.

2. Learned counsel for the petitioner *inter alia* contends that petitioner is the complainant in the present case and got registered the FIR(supra) against respondents No. 2 and 3 with the allegations that his sister namely Avneet Kaur got married with respondent No. 2 in the year 2001. Out of the said wedlock, two sons were born. It was further alleged that due to the atrocities of respondent No. 2, sister of the petitioner and respondent No. 2



started residing separately. It was further contended that on 24.10.2014, respondents No. 2 and 3 entered house of the petitioner and attacked the petitioner/complainant and other family members with the help of weapons. On the basis of aforesaid allegations, FIR(supra) was registered. It is further stated that since the sister of the petitioner, for the studies of her children, is studying in Canada, therefore, petitioner filed an application before learned trial Court for granting her permission to examine herself as prosecution witness through video conferencing vide electronic device i.e. whatsapp. But learned trial Court without examining the peculiar facts and circumstances of the case, dismissed the said application of the petitioner vide impugned order dated 21.05.2024 (Annexure P-9) and appeal preferred against the said order was also dismissed by the lower Appellate Court vide impugned order dated 24.09.2024 (Annexure P-11).

3. Having heard learned counsel for the petitioner and in view of the of the limited prayer made by counsel for the petitioner, this Court is deciding the case in limine without issuing notice to the respondents, in order to save litigation cost of the respondents and judicial time of the Court.

4. 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.

5. Sister of the petitioner is residing in Canada for study of her children and when she is required to be examined before the learned trial Court as one of the prosecution witness, she is not in a position to come to India for getting her statement recorded.

6. In view of the above, the 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 on behalf of her sister, who is residing in Canada, 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* subject to payment of costs amounting to Rs. 10,000/- to be deposited in District Legal Services Authority, Ludhiana, within two weeks.

7. 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.

October 14, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No