

CRM-M-56217-2022 (O&M)
CRM-M-33045-2023 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-56217-2022 (O&M)
CRM-M-33045-2023 (O&M)
Date of decision: 06.05.2024

HARMEET SINGH . . . PETITIONER

V/s

SURPRIYA . . . RESPONDENT

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. B.S. Bhalla, Advocate for the petitioner.
Mr. Ravneet S. Joshi, Advocate for the respondent.

SUMEET GOEL, J.

1. Vide this common order two separate petitions filed by the petitioner under Section 407 of the Cr.P.C. i.e. seeking transfer of two separate petitions filed by the respondent under Section 125 Cr.P.C.; and a petition filed under the provisions of Domestic Violence Act, 2005, respectively, are being decided together.
2. Facts germane to the adjudication of the above mentioned two transfer petitions are:
3. The marriage between the petitioner (husband) and respondent (wife), took place on 08.11.2019. Disputes between the parties started arising immediately thereafter, within 4-5 days of the marriage and since then the parties are at loggerheads. Resultantly, there have been allegations and counter allegations by both the sides against each other. The details of allegations and counter allegations

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since, are not relevant for the adjudication of present petitions they are not being discussed.

4. To cut the issue short. It is pertinent that the respondent being resident of Naya Nangal, Tehsil Nangal, District Ropar (Punjab), filed a petition under Section 125 of Cr.P.C. against the petitioner on 28.09.2022, which is pending adjudication before the learned Family Court, Nangal. The respondent also filed a complaint dated 12.01.2023 under the provisions of Domestic Violence Act, 2005 against the petitioner and his mother. The said petition is pending adjudication before the learned Sub Divisional Judicial Magistrate, Nangal. The petitioner herein is a resident of Jalandhar, District Jalandhar (Punjab).

5. The petitioner filed transfer petition bearing number CRM-56217 of 2022 seeking transfer of petition under Section 125 Cr.P.C.; and transfer petition bearing number CRM-M 33045 of 2023 seeking transfer of domestic violence complaint, before this Court, for transfer of said cases to any other District of State of Punjab except District Ropar, from the Courts at Nangal.

6. I have heard the learned counsel for the parties and have gone through the case records carefully.

7. The main thrust of the submissions of the petitioner while seeking the transfer of the above mentioned two cases outside the jurisdiction of Courts at Ropar District is that the brother of the respondent had been a President of Bar Association at Nangal Sub Division, in District Ropar. It is alleged that the petitioner apprehends mischief/threat by the brother of the respondent. It is pleaded that the petitioner contacted few lawyers, while names of three advocates are mentioned in the petition in this regard, who refused to accept the brief of the petitioner on the ground that they cannot appear against their own colleague. It is submitted that on this aspect of the case the petitioner apprehends

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mischief and threat from the brother of respondent, that he will involve the petitioner and his mother in false cases, if they started appearing in the Court at Nangal.

8. In reply to the above-mentioned grounds put forth by the petitioner to seek transfer of the cases outside the jurisdiction of Ropar District, the respondent contested the same by filing the reply. In the reply it is not denied specifically that the brother of the respondent had been a president of Bar Association at Nangal Sub Division. But a letter dated 29.09.2023 from Bar Council of Punjab and Haryana is annexed with the reply, wherein, it is mentioned that Sh. Shiv Kumar Mehar is a president of Bar Association Nangal for the term 2022-23. It is submitted that the petitioner has not presented the correct facts, the petitioner has named three advocates in transfer petitions, practicing at Nangal, with the averments that he approached them for conducting his case, but they rejected the request of petitioner by citing the brother of respondent as their colleague. But one of the said advocate had represented the petitioner in the Court of learned Additional Sessions Judge, Ropar in his anticipatory bail application. It is submitted that the petitioner has already engaged counsels at Nangal and is being represented regularly by those counsels in Court proceedings. As such the dismissal of both the transfer petitions is prayed.

9. From the pleadings of the parties and arguments advanced on behalf of both the sides, it is clearly borne out, that besides the above mentioned two transfer petitions, an FIR case is also going on between the parties. The proceedings in the said case are going on in the Court of learned Judicial Magistrate, 1st Class, Nangal. The petitioner being accused in that case is being represented through counsel Mr. Ramit Arora, Advocate. The averments in the transfer petitions that petitioner approached three advocates by naming Mr. Mandeep Moudgil as one of

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such advocate, but they refused to represent the petitioner on the pretext that the brother of respondent is their colleague, stands falsified in view of the order Annexure R-5 (in CRM-M 56217 of 2022). The said order passed by learned Additional Sessions Judge, Rupnagar, in the anticipatory bail application of the petitioner, clearly shows that he was represented by said Mr. Mandeep Moudgil, Advocate.

10. The apprehension canvassed by the petitioner qua his false involvement in cases by the brother of respondent at Nangal is a bald plea without there being any concrete material available on record to substantiate the same. It would be totally imprudent to act on such a plea that a person by virtue of being an advocate holds any authority to get the petitioner falsely implicated in cases, merely by his act of appearance in Courts at Nangal. Moreover, it is clearly established on record of the case that the petitioner has been appearing at the Courts at Nangal in person, in the proceedings under the Domestic Violence Act as well as under Section 125 of Cr.P.C. But, no such circumstance of any act on part of the brother of respondent, signifying the attempt on his part, so as to create apprehension in mind of petitioner, for his false involvement in any case has been brought on record of the case. This Court in case titled ***Ashok Kumar vs. Narendra Kumar Jain, 1989(2) CurLJ (CCR) 191*** has held as under:

“For the above circumstances, I gather an impression that the petitioner is extremely suspicious by nature. He has no faith in any judicial personage in the State of Haryana and his suspicion is entertained solely on the ground that his adversary in the litigation is a District & Sessions Judge. The same suspicion has unfortunately cast a shadow on the member of the Bar of Rohtak. A refusal by a lawyer or two

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in not taking the case of the petitioner does not mean that the petitioner cannot avail of professional services.”

11. The conscious false plea taken by the petitioner in the transfer petitions qua the refusal on part of the advocates to represent him in legal proceedings at Nangal, in view of he being represented by one of such Advocate in the anticipatory bail proceedings, is sufficient for dismissal of the transfer petitions. The said ground of non-availability of counsel at Nangal stands further falsified since he is being represented by another advocate in FIR case in the Court of Judicial Magistrate, Ist Class, at Nangal itself.

12. Provisions of Section 407 of the Cr.P.C. being based on the principle of equity, it was incumbent upon the petitioner to do the equity himself first in order to seek equitable relief. The petitioner in view of his averments in the transfer petitions, has clearly not come to the Court with clean hands. It is trite law that a petition containing inaccurate averments, only to achieve ulterior purpose, amounts to an abuse of process of Court. The Hon'ble Supreme Court in case of **V. Chandrasekaran and Anr. Versus Administrative Officer and Ors., 2012(4) RCR (Civil) 588** has held as under:

“34. The appellants have not approached the Court with clean hands, and are therefore, not entitled for any relief. Whenever a person approaches a Court of Equity, in the exercise of its extraordinary jurisdiction, it is expected that he will approach the said court not only with clean hands but also with a clean mind, a clean heart and clean objectives. Thus, he who seeks equity must do equity. The legal maxim "Jure Naturae Aequum Est Neminem cum Alterius Detrimeto Et Injuria Fieri Locupletiolem", means that it is a law of nature that one should not be enriched by causing

loss or injury to another. (Vide: The Ramjas Foundation & Ors. v. Union of India & Ors., AIR 1993 Supreme Court 852; Nooruddin v. (Dr.) K.L. Anand, 1995(2) R.R.R. 556 : (1995) 1 SCC 242; and Ramniklal N. Bhutta & Anr. v. State of Maharashtra & Ors., AIR 1997 Supreme Court 1236).

35. The judicial process cannot become an instrument of oppression or abuse, or a means in the process of the Court to subvert justice, for the reason that the Court exercises its jurisdiction, only in furtherance of justice. The interests of justice and public interest coalesce, and therefore, they are very often one and the same. A petition or an affidavit containing a misleading and/or an inaccurate statement, only to achieve an ulterior purpose, amounts to an abuse of process of the Court.

36. In Dalip Singh v. State of U.P. & Ors., (2010) 2 SCC 114, this Court noticed an altogether new creed of litigants, that is, dishonest litigants and went on to strongly deprecate their conduct by observing that, the truth constitutes an integral part of the justice delivery system. The quest for personal gain has become so intense that those involved in litigation do not hesitate to seek shelter of falsehood, misrepresentation and suppression of facts in the course of Court proceedings. A litigant who attempts to pollute the stream of justice, or who touches the pure fountain of justice with tainted hands, is not entitled to any relief, interim or final.

37. The truth should be the guiding star in the entire judicial process. "Every trial is a voyage of discovery in which truth is the quest". An action at law is not a game of chess,

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therefore, a litigant cannot prevaricate and take inconsistent positions. It is one of those fundamental principles of jurisprudence that litigants must observe total clarity and candour in their pleadings. (Vide: Ritesh Tewari & Anr. v. State of Uttar Pradesh & Ors., (2010) 10 SCC 677; and Amar Singh v. Union of India, 2011(5) RCR (Civil) 386 : (2011) 7 SCC 69)."

13. In view of the above findings wherein, it is held that the petitioner has not come to the Court with clean hands and has pleaded deliberate false averments in the transfer petitions, hence, he does not deserve any compassion. The grounds put forth seeking transfer of the cases, based on falsity, are liable to be rejected. As a result thereof, both the transfer petitions i.e. CRM-M-56217 of 2022; and CRM-M 33045 of 2023 are dismissed.

14. A photocopy of this order be placed on the connected file.

15. Needless to state herein that nothing said hereinabove shall be construed as opinion on merits of the case.

(SUMEET GOEL)
JUDGE

May 06, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No