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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-59103-2024 (O&M)
Date of decision: 03.12.2024

Isha Shree

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deepender Singh, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 447 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') read with Section 528 of
BNSS seeking transfer of case bearing No.CHI-5380-2021, instituted on
02.12.2021, titled as '*State of Haryana Vs. Parkash Bhardwaj and others*',
arising out of FIR No.127 dated 07.10.2021 under Sections 354, 406, 498-A,
506, 34 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police
Station Women West Gurugram, District Gurugram, pending in the Court of
learned Judicial Magistrate 1st Class, Gurugram to the Court of competent
jurisdiction at Hisar.

2024:PHHC:160805



2. Learned counsel for the petitioner wishes to withdraw the present petition, however, confines his prayer to the extent that the petitioner is complainant in the FIR (*supra*) and for deposing before learned trial Court as one of the prosecution witness, she would face inconvenience and hardship and two more cases filed by her have already been transferred to the jurisdictional Court at Hisar and keeping in view the comparative convenience of all the parties involved in the dispute, the petitioner and her parents may be allowed to depose as prosecution witnesses before learned trial Court through video conferencing.

3. Having heard learned counsel for the petitioner and in view of the limited prayer made by learned 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 & 25 of the Civil Procedure Code, 1908 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.

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5. The petitioner, after the retirement of her father, who was lastly posted at Gurugram, was also living with him and now he is residing at Hisar and she along with her father is residing at Hisar. Further, there is a distance of about 180 kilometer from Hisar to Gurugram and it would cause undue hardship to the respondents, if the aforesaid case is transferred to Hisar.

6. Keeping in view the facts and circumstances of the case, present petition is disposed of. In case, the petitioner moves 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.***

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

03.12.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No