

2024:PHHC:170660



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-63467 of 2024
Date of Decision: 17.12.2024

Babu Mohib Malik		...Petitioner
	Versus	
State of Punjab		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Saurabh Verma, Advocate, for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 407 read with Section 482 Cr.P.C. with a prayer to set aside the order dated 18.11.2024 (Annexure P-7) passed by the Court of Ms. Harpreet Kaur Randhawa, Sessions Judge, Ludhiana and the order dated 12.09.2024 passed by the Court of Ms. Radhika Puri, CJM Ludhiana, whereby, the prayer of the petitioner to transfer the case arising out of FIR No. 50 dated 12.03.2020 under Section 420 of IPC, Police Station Division No. 1, District Ludhiana, titled as “**State Vs. Babu Mohib Malik,**” from the Court of Sh. Ravipal Singh, Judicial Magistrate 1st Class, Ludhiana to some other Court was declined.
2. Learned counsel for the petitioner contends that FIR No. 50 dated 12.03.2020 under Section 420 of IPC, Police Station

Division No. 1, District Ludhiana, (Annexure P-1), was registered against the petitioner and after completion of investigation, the challan in the present case was filed on 28.09.2020. Learned counsel for the petitioner contends that the petitioner was granted the concession of anticipatory bail in the said case by this Court vide order dated 20.08.2020 (Annexure P-2). Thereafter, the petitioner had filed a petition for quashing of the FIR and all subsequent proceedings arising therefrom. Vide order dated 24.07.2024 (Annexure P-3), this Court permitted the petitioner to withdraw the petition with liberty to raise all the pleas before the trial Court. However, the trial Court was directed to expedite the trial vide order dated 24.07.2024 (Annexure P-3). During the course of trial, no prosecution witness came to the Court, however, the petitioner was made to sit from morning to evening without any justifiable reason. Consequently, the present petitioner moved an application before the Court of Judicial Magistrate 1st Class, Ludhiana to some other Court as the petitioner felt that the Presiding Officer was harassing him intentionally and could ignore evidence in his favour. Vide order dated 12.09.2024 (Annexure P-5), the prayer for transfer of the case from the Court of Ravipal Singh, Judicial Magistrate 1st Class, Ludhiana, to some other Court was declined. The petitioner filed a revision petition before the Court of Sessions Judge, Ludhiana, which was also dismissed by the said Court vide order dated 18.11.2024 (Annexure P-7).

3. Learned counsel for the petitioner further contends that the complainant had lodged the FIR by levelling false allegations and had forged the documents. Even, the trial Court was adopting illegal methods, just to pressurize the petitioner to compromise the matter with the complainant. The Presiding Officer was humiliating and harassing the petitioner to sit in the Court for the entire day and then adjourned the case on so many dates. Thus, the case is liable to be transferred to another Court at Ludhiana itself.

4. I have heard the learned counsel for the petitioner and perused the record carefully.

5. Before recording the reasons, it would be appropriate to reproduce the orders passed by the Court of CJM Ludhiana as well as Sessions Judge, Ludhiana. While rejecting the prayer of the petitioner, the following reasons were recorded by the Court of Chief Judicial Magistrate, Ludhiana for declining the prayer of the petitioner:-

“4.I have heard learned counsel for applicant and perused the entire record on file. By way of moving the present transfer application. the applicant has sought transfer of State Case bearing FIR No.50 dated 12.3.2020, under Sections 420 of IPC Police Station Kotwali, District Ludhiana titled as "State Versus Babu Mohib Malik", pending in the court of Sh.Ravipal Singh, Judicial Magistrate Ist Class, Ludhiana to some other Court, on the ground of harassment by the Presiding Officer. Learned Presiding Officer has clearly mentioned in his comments that Hon'ble High Court has directed

the trial court to expedite the trial proceedings in the said case. The learned Presiding Officer has further denied that he ever made sit the accused from morning to evening. It appears from the contents of the transfer application that the same has been filed merely on the basis of whims and fancies of the applicant.. Further, if the litigant is allowed to go on for changing the benches, it would render herculean task for the Officer to decide the case. Thus, it is clear from the record that aspersions cast by the applicant and the apprehension expressed by the applicant is nothing, but a shell without substance. Hence, no ground made out for transfer of case from the Court 17 of learned Presiding Officer”.

6. Similarly, while declining the prayer of the petitioner, following reasons were recorded by the Sessions Judge, Ludhiana:-

As is apparent from the record, the applicant has sought transfer of criminal case bearing No. CHI/2716/2020 titled "State Vs.Babu Mohib Malik" from the Court of Sh.Ravipal Singh, JMIC, Ludhiana to some other Court of competent jurisdiction on the ground that said Court is harassing the revisionist/applicant intentionally and it also made him to sit in the court from morning to evening without any justified reasons in case no evidence/witness is present in the Court from prosecution side. In the ground of revision petition, the revisionist-applicant has also contended that he has knowledge from reliable sources that complainant has close relation with the judicial officer and he has fear to get injustice from the said court. Ld. Presiding officer Sh.Ravipal Singh, JMIC, Ludhiana before whom the case is pending, in his comments submitted before,

Ld.CJM, Ludhiana denied the allegations leveled by the revisionist in the transfer application being baseless. It is submitted by the Presiding officer that case is fixed for prosecution evidence and accused himself filed CRM-M-5865-2021 before Hon'ble High Court and vide order dated 24.07.2024, Hon'ble High Court directed the trial Court to expedite the trial proceedings. After going through the comments furnished by Ld. Presiding officer and going through the record of the main case, this court finds no substance in the allegations leveled by the applicant in the transfer application as well as in the grounds of revision. Cogent and concrete reasons are required to be established by a party seeking transfer, which the applicant has failed to do so. It is not the sweet will of a client to choose the forum for adjudication of his or her litigation and cases cannot be transferred on the whims and fancies of a litigant, on such vague and baseless allegations. More so, courts are known for imparting justice as per law without any fear or favour. Mere presumptions or possible apprehension could not be the basis of transferring a case from one court to another. Furthermore, as per the comments submitted by the Presiding officer, Hon'ble High Court vide order dated 24.07.2024 directed to expedite the trial proceedings. Hence, I do not find any substance in the allegations levelled by the revisionist- applicant in the transfer application."

7. I have carefully perused the findings recorded by both the Court and find no reasons to deviate from the same. In the present case, the apprehension expressed by the petitioner seems to be baseless and imaginary. He has just submitted that he was made to sit

from morning till evening and no effective proceedings were held. However, in the application, no such details are forthcoming. He had not mentioned the date of hearing, when he had made to sit from morning till evening. Even, no such order passed by the trial Court was placed on record either before this Court or the Sessions Court. Still further, the comments of the Judicial Officer were sought by the Court of CJM and he clearly stated that he had no reason or connection to harass the petitioner and he was never made to sit from morning till evening. Thus, the apprehension of not getting a fair and impartial trial seems to be unreasonable and imaginary.

8. In view of the above, the present petition is ordered to be dismissed.

17.12.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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