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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-60054-2024 (O&M)  
Date of Decision: 01.05.2025

Pxxxx

....Petitioner(s)

Versus

State of Haryana and another

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Shubkarman Kumar, Advocate,  
for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

Mr. Sandeep, Advocate for  
Mr. Lupil Gupta, Advocate, for respondent No.2.

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**JASGURPREET SINGH PURI, J. (Oral)**

**CRM-17720-2025**

The present application has been filed for placing on record  
reply on behalf of respondent No.2.

For the reasons recorded in the application, the same is allowed.  
Reply on behalf of respondent No.2 is taken on record subject to all just  
exceptions.

**Main case**

1. The present petition has been filed under Section 447 of BNSS  
for transfer of the case bearing FIR No.329 dated 26.06.2019, under Sections  
376 and 506 IPC, registered at Police Station Sector 53, District Gurugram  
from Gurugram to competent Court of jurisdiction at Kaithal.



2. Learned counsel appearing on behalf of the petitioner submitted that it is a case where an FIR was registered at the instance of the present petitioner against respondent No.2 under Sections 376 and 506 IPC on 26.06.2019 and after investigation of the case, the challan was presented but till date no prosecution witness has been examined. He submitted that at that time when the petitioner had got FIR registered, she was staying in Gurugram because she was married to one Sonu and thereafter on a petition being filed by her against her husband namely, Sonu, under Section 13(1) (ia) of the Hindu Marriage Act vide Annexure P-4 the marriage was dissolved on 17.11.2022. After the marriage of the petitioner with the aforesaid Sonu was dissolved, she got re-married with another person namely, Jaspal Singh, resident of District Kaithal and in this way, she has shifted to District Kaithal and is residing there but the trial in the present case is pending at Gurugram and she has a minor child who is of the age of about 1 year and 10 months born out of the second marriage and because of this reason, she is not able to travel from Kaithal to Gurugram and therefore, the trial be transferred from Gurugram to Kaithal.

3. On the other hand, Mr. Surinder Kumar Dagar, DAG, Haryana has submitted that the FIR is of the year 2019 and almost 6 years have elapsed but not even a single prosecution witness has been examined and it appears that the trial has been delayed at the hands of the petitioner herself because she is neither deposing before the learned trial Court nor is she appearing before the Court. He also submitted that in the present case charges have been framed under Section 451 IPC and not under Section 376 IPC and Section 451 IPC pertains to the offence of trespass and therefore, there is no ground for transfer of the aforesaid trial only on the ground that the petitioner has shifted the place of residence.



4. Learned counsel appearing on behalf of respondent No.2 has opposed the grant of transfer of the trial on the ground that firstly the petitioner has lodged a false FIR pertaining to allegations of Section 376 IPC which were found to be false and that was the reason as to why charges have been framed under Section 451 IPC i.e. trespass and secondly, the mere fact that the petitioner has got re-married in the year 2022 and is now residing with her second husband in Kaithal cannot become a ground for transfer of the trial and particularly in view of the fact that she herself is evading the service of the summons from the trial Court and she has not deposed before the learned trial Court for the last 4/5 years and rather prejudice has been caused to respondent No.2 and in case such a transfer is effected, then further prejudice will be caused. He also submitted that rather non-bailable warrants have been issued against the petitioner by the learned trial Court at Gurugram but still she has not even cared to depose before the learned trial Court.

5. I have heard the learned counsels for the parties.

6. The prayer in the present petition is for transfer of the trial from Gurugram to Kaithal. The ground so stated by the learned counsel for the petitioner for seeking transfer is that the FIR in the present case was lodged in the year 2019 and charges have been framed but later on in the year 2022, the petitioner got divorce from one Sonu with whom she was residing at Gurugram at the time of the lodging of the FIR and thereafter, she has got re-married and she is now staying in her matrimonial home with her second husband at Kaithal and has a child of about 1 year and 10 months old with her born out of the second marriage and therefore, it becomes very difficult for her to travel from Kaithal to Gurugram and therefore has prayed for transfer of the trial. On the factual aspect it has been so stated by the learned State counsel and learned



counsel for respondent No.2 that although the FIR was lodged under Sections 376 and 506 IPC but charges have been framed only under Section 451 IPC pertaining to offence of trespass and that the petitioner is herself deliberately evading the Court where the trial is going on and because of her default the trial is not commencing and rather non-bailable warrants have been issued against her.

7. After hearing the learned counsel for the parties, this Court is of the considered view that for the last 6 years the trial is pending before the learned Court at Gurugram and no prosecution witness has been examined. No justification has come forth from the learned counsel for the petitioner as to at least from 2019 till the petitioner got re-married in November, 2022 why she has not deposed before the Court and rather when non-bailable warrants were issued against her. The ground raised by the learned counsel for the petitioner that the petitioner has got re-married and shifted her residence to Kaithal and she has a child of the age of 1 year and 10 months cannot become a ground for transfer of trial. Although it is a settled law that mostly for the convenience of the parties or especially in certain cases for the convenience of the ladies, the trial can be transferred but the peculiar facts and circumstances of the present case suggest otherwise. Therefore, this Court is of the considered view that it is not a fit case for transfer of the trial from Gurugram to Kaithal.

8. Consequently, the present petition is dismissed.

01.05.2025

*rakesh*

**(JASGURPREET SINGH PURI)**

**JUDGE**

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