

2026 LiveLaw (SC) 16

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

AHSANUDDIN AMANULLAH; J., K. VINOD CHANDRAN; J.
Special Leave Petition (Crl.) No.7038 of 2025; JANUARY 06, 2026
Prasanna Kasini versus The State of Telangana & Anr.

Criminal Procedure – Transfer of Cases – Allegation of Bias – Matrimonial Disputes – Conduct of Parties – Deceitful Litigation – Held that the High Court's order of transfer, based on allegations that the wife's relatives (a Head Constable and a District Court staff member) could exert influence, cannot be sustained - Bias on the part of a Judge cannot be lightly inferred merely because a party's relative is a police officer within the jurisdiction or a staff member in the same District Court - Litigation – Noted that the husband surreptitiously obtained a divorce decree while a compromise was being reached in criminal proceedings, without informing the wife - Such reprehensible conduct by the husband should have restrained the High Court from granting a transfer that increased the travails of a woman with two children – Held that to address the husband's alleged threat to life, he is permitted to seek appearance through counsel or video conferencing - If physical presence is required, the Magistrate may provide necessary protection – Appeal allowed.

[Para 5 - 12]

[Arising out of impugned final judgment and order dated 04-03-2025 in TRCRLP No. 108/2024 passed by the High Court for the State of Telangana at Hyderabad]

For Petitioner(s): Mr. Kumar Shashank, Adv. Mr. Nivesh Kumar, AOR Mr. Krishna Swami Yadav, Adv. Mr. Nitish Rai, Adv. Mr. Rakesh Kumar, Adv.

For Respondent(s): Mr. Kumar Vaibhaw, Adv. Ms. Devina Sehgal, AOR Mr. Srikanth Varma Mudunuru, Adv. Mr. Yatharth Kansal, Adv. Mr. Rakeesh N.P., AOR Dr. Shine P. Sasidhar, Adv. Mr. Sumanth G., Adv.

J U D G M E N T

K. VINOD CHANDRAN, J.

Leave granted.

2. The appellant, the wife, is aggrieved with the impugned judgment by which, on the request of the husband, the second respondent herein, the proceedings in C.C. No.136 of 2023, initiated on the complaint of the appellant, pending in the file of the learned Additional Judicial Magistrate First Class, Sangareddy was transferred to the Court of the Metropolitan Magistrate at Nampally, Hyderabad. The wife, impleaded as respondent there, had not appeared in the matter. The impugned order directed transmission of the case within one month from the date of receipt of the impugned order with intimation to the other side.

3. Learned Counsel for the appellant vehemently argued that the *ex parte* order of transfer was unmindful of the travails of a woman left alone with two children to prosecute a case at a location distant from her hometown. It is also contended that the facts of the case unfold a reprehensible deceitful conduct on the part of the husband which further should have restrained the High Court from transferring the case. It is also specifically pointed out that the allegation of bias on which the transfer petition was filed was based on the fact that a relative of the wife was employed as a Junior Assistant in the District Court at Sangareddy and another relative was working as Head Constable in the Women

Police Station at Sangareddy, where the Court of Additional Judicial Magistrate First Class was situated. The bias alleged was the influence exerted by the above two. It is specifically pointed out from Annexure P-1 in the rejoinder that the Junior Assistant was transferred from the District Court under which the Court of Additional Judicial Magistrate First Class was functioning.

4. Learned Counsel for the respondent-husband specifically referred to the counter affidavit filed wherein it was stated that the appellant's brother-in-law is a Head Constable in the Sangareddy Police Station and her sister-in-law who is a Senior Assistant in the District Court at Sangareddy along with her brothers, who are politicians were influencing the police and the Court staff, perpetrating harassment on the husband, the second respondent herein.

5. On facts, we cannot but notice some which are relevant to understand what transpired between the parties, though the subject matter is only a transfer effected. The appellant and the second respondent were married in the year 2007 and they proceeded to the United States of America where the second respondent was working. They returned to India later and it is the contention of the appellant that due to persistent mental cruelty and harassment, a crime was registered at the Raidurgam Police Station, Ranga Reddy District and as a counterblast in the year 2010, the second respondent filed a petition for divorce before the Family Court, Ranga Reddy District. In 2011, a settlement was reached, on the mediation of elders and the parties joined together. A compromise was entered into which was produced in an application filed under Section 482 of the Code of Criminal Procedure, 1973 by the husband, against the criminal proceedings pending against him, as initiated by the wife, which was allowed by an order dated 13.02.2013 as is evident from Annexure P-2. However, the husband surreptitiously continued the proceedings of divorce and Annexure P-1 order of divorce was obtained on 13.02.2013 which was never brought to the notice of the wife; especially when Annexure P-2 was passed six days later to the order of divorce, which was not disclosed.

6. After joining husband in USA in 2014, appellant gave birth to a male child on 16.10.2015 at USA and a female child on 14.09.2016 in India. In the year 2022, the wife along with the children returned to India and started living with the husband's family from where she was unceremoniously evicted by the brother-in-law, is the contention. The wife, it is asserted was made aware of the divorce granted by the Family Court only through a legal notice issued against the appellant, by her brother-in-law on 16.08.2022 which notice is produced as Annexure P-3. In the meanwhile, the appellant had also registered another FIR at the Women Police Station, Sangareddy which has led to criminal proceedings, now transferred. The appellant on coming to know of the *ex parte* order of the Family Court, granting divorce, approached the High Court with an appeal wherein by Annexure P-7, the delay of 2709 days in filing the appeal was condoned and the matter is said to be pending.

7. We cannot but notice that *prima facie*, the contention of the learned counsel for the appellant that the husband employed reprehensible deceit on the wife cannot be easily brushed aside. Be that as it may, we are now only concerned with the transfer of the case from Sangareddy to Hyderabad. We do not think that the High Court appreciated the issue properly, especially since the learned Single Judge did not have the benefit of hearing the wife. We would not dwell upon whether the wife had received the notice issued or not, but we notice that in the overall circumstances and the reasons stated for raising the ground of bias the transfer was not justified.

8. Primarily, it cannot be said that merely because the relative of the wife is a Head Constable and another is working in the District Court, there would be a bias against the

husband, especially when the adjudication is carried out by the Judge. We cannot lightly find a bias on the Judge merely because the relative of a party is a Head Constable working in a Police Station coming within the jurisdiction of the Court and/or another relative is working in the District Court itself. Further, as has been pointed out by the learned counsel for the appellant-wife, the lady who was working as Junior Assistant has already been transferred.

9. Faced with the situation, the learned counsel for the husband, the second respondent would contend that he faced serious threat to life at Sangareddy where the wife's people are influential. The second respondent who is an accused in the proceedings could seek for appearance through a counsel or by video conferencing, during the pendency of the case and if at all his presence is required by the Magistrate, he could file an application for providing sufficient protection to appear before the Court which shall be favourably considered by the Magistrate.

10. We are of the opinion that the order of the High Court cannot at all be sustained, especially on the grounds raised of bias which we find to be inconsequential. If transfer has been effected to the Metropolitan Magistrate at Nampally, Hyderabad, the case registered on transfer of C.C. No.136 of 2023 of the Additional Judicial Magistrate First Class, Sangareddy shall immediately be transferred back to the Additional Judicial Magistrate First Class, Sangareddy, if the matter is still pending and if it has been closed on any grounds, including the default of the complainant to appear before the transferred-Court, the learned Metropolitan Magistrate shall restore the proceedings and transfer it back to the Additional Judicial Magistrate First Class, Sangareddy, without any fail.

11. We make it clear that the observations made in the judgment are not on the merits of the case but are only in adjudication of the transfer petition and would not govern the final adjudication of the matter, which has to be on the basis of evidence led in the case.

12. The transfer as above shall be carried out within a month. The parties shall appear before the Additional Judicial Magistrate First Class, Sangareddy on 16.02.2026, which appearance shall be permitted even through counsel.

13. The appeal stands allowed.

14. Pending application(s), if any, shall stand disposed of.