

IN THE HON'BLE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
TRANSFER PETITION (CRIMINAL) NO. 225 OF 2020

RHEA CHAKRABORTY

...PETITIONER

VERSUS

STATE OF BIHAR & ORS

...RESPONDENTS

WRITTEN SUBMISSIONS FILED ON BEHALF OF PETITIONER

A handwritten signature in black ink, appearing to read 'Malak', with a long horizontal stroke extending to the right.

ADVOCATE FOR PETITIONER: MALAK MANISH BHATT

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The Petitioner has filed the present Transfer Petition under Section 406 of the Code of Criminal Procedure, 1973 ("**CrPC**") seeking *inter alia* the transfer of Case No. 4046 of 2020 pending before the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna and arising out of FIR No. 241 of 2020 registered at PS Rajeev Nagar, Patna to Addl. Chief Metropolitan Magistrate, Bandra, Mumbai ("**ACMM**") who exercises jurisdiction over Bandra Police station wherein the cause of action has wholly arisen.

KEY LIST OF DATES:

14.06.2020	The deceased, Sushant Singh Rajput committed suicide at his Bandra residence, Mumbai. Accordingly, Mumbai police registered an " Unnatural Death Report " after which investigation has commenced and is ongoing under the jurisdiction of the ACMM, Bandra, Mumbai.
18.06.2020	Statement of the Petitioner was recorded at Bandra Police Station, Mumbai.
25.07.2020	The deceased's father i.e. Respondent No. 2 has lodged a complaint after 41 days of the incident at Rajeev Nagar Police Station, Patna and the FIR was registered. Thereafter, the case was forwarded to the Additional Chief Judicial Magistrate 3, Patna Sadar at Patna
28.07.2020	A 4 member team was deployed to Mumbai by Bihar Police.
29.07.2020	Aggrieved, the Petitioner filed the instant Transfer Petition.
04.08.2020	Bihar Government accorded consent for investigation by CBI.
05.08.2020	The instant Petition was first listed and heard before this Hon'ble Court.
05.08.2020	UOI accepted the request for FIR to be investigated by CBI.
08.08.2020	The Enforcement Directorate registered a case for investigation under the Prevention of Money laundering Act, 2002. Petitioner was summoned in Mumbai wherein she was questioned for several hours.

SUBMISSION 1: THE INSTANT TRANSFER PETITION IS MAINTAINABLE

- i. It is submitted that the word 'case' as used within Section 406 of CrPC has been similarly used in various other provisions within CrPC including the definitions of 'cognizable offence' in Section 2(c) and 'non-cognizable offence' in Section 2(l) and in Sections 56 & 57 of CrPC which relates to pre-cognizance stage. Further, Section 156 which pertains to a police officer's power to investigate into a cognizable offence uses the term 'case'. Therefore, the above illustrations from the CrPC itself, clearly indicate that the meaning ascribed to the word 'case' in Section 406 of CrPC cannot be restricted to 'case after cognizance' and includes 'FIR' as well. Hence, the instant petition fits well within the scope of Section 406 of CrPC.
- ii. Once a report is forwarded to a Magistrate under Section 157 of the CrPC, the concerned court assumes jurisdiction over the said case and the formal case registered before such court is amenable to transfer under Section 406 CrPC. The purpose of forwarding a report under Section 157 is to ensure judicial oversight over investigations by a court and hence demonstrates judicial exercise over the case. **[The State of Karnataka vs. Moin Patel, (1996) 8 SCC 167, Para 16]**
- iii. It is submitted that the maintainability of the instant Petition remains unaffected by the decision of this Hon'ble Court in the case of **Dr. Ram Chander Singh Sagar v. State of Tamil Nadu & Anr, (1978) 2 SCC 35**. The said decision does not in any manner impede the powers of this Hon'ble Court as far as transferring FIRs' from one State to another under Section 406 of CrPC is concerned. The said decision also does not provide any reason or rationale for coming to the conclusion it does. In fact, this Hon'ble Court despite the same has allowed transfer of complaints / FIRs other cases including:
 - a. **Fajlor Rahman Alias Mohamod Fajloo Alias Raju & Ors v. State of Punjab & Anr** (2006) 9 SCC 714
 - b. **Premkumar & Ors v. State of Kerala** (2008) 17 SCC 264
 - c. **L.N Agarwal v. Meerajuddin N. Patel & Anr** (TP [CrI] No. 172 of 2007)
 - d. **Swami Ram Dev v. Shyam Rajak and Other Matters** (TP [CrI] No. 175-178 of 2014, Nos. 37-39 of 2015, Nos. 22-25 of 2015)
 - e. **Smt. Afsana v. State of NCT Delhi** (TP [CrI] No. 95 of 2018)
 - f. **Shubra Shahi v. Bharat Rai & Anr** (TP [CrI] No. 276-277 of 2019)

Therefore, it is humbly submitted that there arises no reason in the instant matter for this Hon'ble Court to refuse such prayer.

SUBMISSION 2: THE COURTS IN BIHAR DO NOT EXERCISE LAWFUL JURISDICTION IN THE INSTANT MATTER

- i. Section 177 of CrPC categorically states that the case should be investigated into and be dealt with by the court where the offence has been committed. Even on a reading of the FIR, no part of the offence has taken place in Bihar. Even the FIR alleges that all acts have happened only in Mumbai and as such Patna (Bihar) has only been mentioned owing to the Complainant's residence being at Patna.
- ii. Section 179 of CrPC has been misconstrued to usurp jurisdiction in Bihar under political pressure. Example of offence for the purpose of Section 179 can be - a case of a cheque issued in Maharashtra, and returned unpaid on being deposited in Bihar. Section 179 reads as follows:

"When an act is an offence by reason:

- (i) of anything which has been done and*
- (ii) of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued."*

A plain reading of the subject FIR is clearly indicative of the fact that no such consequence of such alleged act has ensued within the State of Bihar.

- iii. The maximum that may be done in such instance, is for the FIR to be registered as a "Zero FIR" and the same may be forwarded to the Police Station having jurisdiction over the matter.
- iv. It may also be noted that despite the Enforcement Directorate ("ED") having purportedly registered a case for investigation under the Prevention of Money laundering Act, 2002 by filing ECIR/MBZO/-I/31/2020 on the basis of the predicate offences in FIR registered at Patna, the Petitioner was served with a summon from ED Zonal Office at Mumbai and she had participated in such investigation by visiting the ED, Mumbai office where she was interrogated for hours on 8.8.2020.
- v. It is also submitted that the word 'ordinarily' as appearing within Section 177 of CrPC must be given its natural meaning. Such provisions emanates from the doctrine that all crimes are local and thus in the instant case where it was clear that the entire cause of action has arisen within the jurisdiction of ACMM, Mumbai, no other court can be said to exercise lawful jurisdiction.
- vi. As noted by this Hon'ble Court in ***Lalita Kumari v. State of U.P (2014) 2 SCC 1***, compulsory registration of a FIR is for the purpose of ensuring judicial oversight as well. Under Section 157 of CrPC, the police officer is required to

forward a report to the Magistrate. Thus, the information must not only be brought to the knowledge of the proper investigating agency but also the Magistrate, who in the instant case would be ACMM, Mumbai who exercises lawful jurisdiction in the matter.

SUBMISSION 3: TRANSFER OF INVESTIGATION TO CBI AT THE BEHEST OF BIHAR POLICE IS WHOLLY WITHOUT JURISDICTION

- i. Admittedly, the case registered by the Bihar Police was transferred to the CBI for the reasons of a) '*sensitivity*' and b) '*inter-state ramifications*'. The concept of sensitivity is alien to criminal jurisprudence. There is not even a remote whisper of any material to support the theory of '*inter-state ramification*'. The offence if at all, as alleged is completely within the jurisdiction of Mumbai even as per the ED.
- ii. The said transfer has been undertaken solely with the motive of rendering the instant petition infructuous. The Petitioner submits that legal maxim *sublato fundamento cadit opus* squarely applies in the instant case in as much as the purportedly commenced investigation is the foundation of the CBI case against the Petitioner which if found to be without jurisdiction, would cause the entire case of CBI and ED as well to be deemed as being wholly without jurisdiction.
- iii. It is submitted that the investigations in Bihar are totally illegal and such illegal proceedings cannot be transferred to CBI in the present manner by way of illegal executive orders. The Petitioner has no objection if the transfer of investigation to CBI is done in exercise of powers conferred upon this Hon'ble Court under Article 142 of the Constitution of India. Otherwise, the present transfer from Bihar Police to CBI as is done is totally without jurisdiction and contrary to law.
- iv. It is further submitted that as per Section 6 of the Delhi Special Police Establishment Act, 1946 ("**DSPE Act**"), the consent of the State Government is necessary for any member of Delhi Special Police Establishment to exercise powers and jurisdiction in a case. Therefore, the proper "State Government" required to provide its consent shall be the state government who ordinarily exercises jurisdiction in the concerned investigation.
- v. It is submitted that based on the above reading of the Section, it is amply clear that the State of Bihar which ordinarily also exercised no jurisdiction to investigate the subject FIR could not have been the proper authority for providing the requisite consent as needed under the said provision. Thus, the consent by State of Bihar under Section 6 is bad in law and was given merely to render the present Petition infructuous.

SUBMISSION 4: FIR DOES NOT DISCLOSE ANY COGNIZABLE OFFENCE

- i. In any case, a perusal of the FIR would indicate that no cognizable offence has been made out even on the facts and circumstances mentioned in the FIR. The averments in the FIR in no manner indicate how the alleged actions of the Petitioner led to the suicide of the deceased.
- ii. Moreover, the FIR contains various contradictions in as much as while alleging that the Petitioner wrongfully restrained and confined the deceased and cut-off the deceased from his family, the FIR itself mentions that immediately prior to the incident of 14.06.2020, one of the sister of the deceased stayed with him.
- iii. Thus, the very registration of an FIR basis such contrary facts and baseless allegations without any substance demonstrate the illegality of the entire process. Hence, it is humbly submitted that in such circumstances, no transfer to CBI is mandated or made out and the allegation if any, ought to be investigated under the jurisdiction / supervision of the competent court in Mumbai.

Therefore, in view of the foregoing submissions made on behalf of the Petitioner, it is humbly prayed that this Hon'ble Court may be pleased to grant the reliefs as sought by the Petitioner through the instant Transfer Petition.

FILED THROUGH



**MALAK MANISH BHATT
ADVOCATE FOR PETITIONER**

DATE: 13.08.2020

PLACE: NEW DELHI

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(2006) 9 SCC

(2006) 9 Supreme Court Cases 714

(BEFORE ASHOK BHAN AND LOKESHWAR SINGH PANTA, JJ.)

FAJLOR RAHMAN ALIAS MOHAMOD FAJLOO

ALIAS RAJU AND OTHERS

.. Petitioners;

Versus

STATE OF PUNJAB AND ANOTHER

.. Respondents.

Transfer Petition (Crl.) No. 517 of 2005[†], decided on April 10, 2006

Criminal Procedure Code, 1973 — S. 406 — Transfer of case pending before Magistrate, Phillour, Distt. Jalandhar (Punjab) to the Court of CJM, Barpeta (Assam), prayed for by the petitioners — Petitioner 2, resident of Phillour, and alleged to be a major, out of love for Petitioner 1, leaving the house of her parents without informing them, and reaching Barpeta (native place of Petitioner 1) and marrying him of her own free will and consent in presence of elders — Certificate of marriage issued by the Kazi — However, Respondent 2 (mother of Petitioner 2) filing FIR against Petitioner 1 and his two brothers under Ss. 363-A, 366 and 120-B IPC before Goraya police station, Mouza Phillour, Distt. Jalandhar — Petitioners apprehending danger to their lives from relatives and family members of Petitioner 2 even to the extent of killing them in the event of their arrest by police of PS Goraya and taking them outside Assam — Hence, in the interest of justice and fair play, transfer petition allowed (Paras 4, 5, 8 and 10)

Transfer petition allowed

P-M/34093/SR

Advocates who appeared in this case :

Rana Mukherjee, Anand, Azim H. Laskar and Abhijit Sengupta, Advocates, for the Petitioners;

R.K. Rathore, Additional Advocate General for State of Punjab (E.C. Agarwala, Mahesh Agarwal, Rishi Agarwal, Manu Krishnan, M.K. Verma and Arun K. Singh, Advocates, with him) for the Respondents.

ORDER

1. This petition under Section 406 of the Criminal Procedure Code, 1973 read with Order 36 of the Supreme Court Rules, 1966 is filed by the petitioners seeking transfer of PS Case No. 21 of 2005 (titled *State v. Mohd. Fajloo*) pending before the learned Magistrate, Phillaur, Jalandhar (Punjab) to the Court of learned Chief Judicial Magistrate, Barpeta (Assam).

2. The brief facts leading to the filing of the present transfer petition are that Fajlor Rahman @ Mohamod Fajloo @ Raju, Petitioner 1 herein, is a permanent resident of District Barpeta, Assam. He is employed as a truck driver. He has been carrying goods in his vehicle to other States including the State of Punjab. Most of the time, the petitioner had the assignment of loading/unloading of goods from Mouza Phillour, District Jalandhar, Punjab. While doing so, he used to stay in the truck union area of Goraya police station. During his frequent visit to Phillour, Petitioner 1 met Petitioner 2, Mani Khatun, and both of them became close to each other. The petitioners

[†] Under Section 406 of the CrPC for transfer of PS Case No. 21 of 2005 pending in the Court of Learned Magistrate, Punjab

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herein have averred in this petition that the relation between Petitioners 1 and 2 was known to the parents of Petitioner 2, but, at no point of time, they ever
a raised any objection to such relationship.

3. On the basis of the consent of Petitioner 2, Petitioner 1 agreed to convert such relationship into marriage and, accordingly, Petitioner 1, prior to 1-3-2005, made a formal proposal to the parents of Petitioner 2, but they have outrightly rejected the offer of marriage.

4. On 1-3-2005, Petitioner 2 left the house of her parents and
b straightaway came to the native place of Petitioner 1. On 6-3-2005, Petitioners 1 and 2 along with the elder members of the family applied for registration of their marriage in the office of a Kazi (Muslim Marriage Registrar) at Barpeta road, who performed their marriage as per the Muslim Shariat. In the application for registration of the marriage, Petitioner 2
c alleged to have voluntarily stated that she is in love with Petitioner 1 and, on her own free will and consent, she accompanied Petitioner 1 without informing anyone in her family and reached Assam. The Kazi at Barpeta issued a *kabin nama* (certificate of marriage) on the same day in which the amount of mehar was fixed at Rs 10,001.

5. It was on 15-3-2005 when the mother of Petitioner 2 (Respondent 2
d herein) made a statement before the Goraya police station, Mouza Phillour, District Jalandhar, on the basis of which, Case No. 21 of 2005 for offences under Sections 363-A, 366 and 120-B IPC was registered against Petitioner 1 and his two brothers, namely, Mohamod Moti and Bazrul Ali, Petitioners 3 and 4 herein.

6. The case of the petitioners in this petition is that Petitioner 2 is a major
e and she left the house of her parents with her free consent and will. The criminal case implicating the petitioners has been falsely lodged by Respondent 2, the mother of Petitioner 2, who got a warrant of arrest issued from the Court of learned Magistrate, Phillour, Jalandhar, against Petitioners 1, 3 and 4. The said warrant of arrest was executed through the Barpeta police, Assam, and Petitioner 4 Mohamod Bazrul Ali, was arrested on
f 4-4-2005 from his house at Village Halapakri, District Barpeta, Assam, who, later on, was released on bail by the learned Gauhati High Court by its order dated 27-4-2005.

7. On 15-6-2005, Petitioners 1 and 2, apprehending their arrest in the
g abovesaid case, filed an application for the grant of an anticipatory bail before the Hon'ble Gauhati High Court, which was allowed by the Court on 1-7-2005 and Petitioners 1 and 2 were ordered to be released on bail, subject to certain conditions contained in the said order.

8. The petitioners state that Petitioners 1 and 2, after valid marriage, are
h living happily as husband and wife at their Village Halapakri, PO Howli, District Barpeta (Assam), but keeping in view the case pending before the learned Magistrate, Phillour, District Jalandhar (Punjab), they are receiving constant threat from the relatives and family members of Petitioner 2 to the extent of even killing both of them. They apprehend that in the event of their

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arrest by the police of PS Goraya and taking them outside the State of Assam, their life will be in danger. On these premises, the petitioners have filed the present transfer petition.

9. On notice, Shri Gursharan Deep Singh Grewal, Deputy Superintendent of Police, Tehsil Phillaur, District Jalandhar, filed a counter-affidavit admitting the registration of FIR No. 21 of 2005 dated 15-3-2005 against Petitioners 1, 3 and 4 in Police Station Goraya, Tehsil Phillour, on the basis of the complaint lodged by Smt Shelo (Respondent 2), mother of Petitioner 2. He stated that as per the allegations made by Respondent 2 in her complaint to the police, the age of Petitioner 2 was stated to be 13½ years at the time of the occurrence. The State of Punjab has opposed this transfer petition, inter alia, on the grounds that the complainant Respondent 2 is residing at Goraya and most of the witnesses, including the official witnesses in this case, are also from Goraya and the case has been registered with Police Station Goraya, Tehsil Phillour, District Jalandhar, and it would practically be very difficult for the witnesses to go to Assam for giving their evidence as the distance between Jalandhar and Assam is about 2000 km. Respondent 2 in her counter-affidavit has stated that her daughter, Petitioner 2, at the time of occurrence was minor and she has been kept in illegal confinement by Petitioners 1, 3 and 4. She further submitted that her daughter has not been allowed to meet her parents for the past about one year and they do not know about her welfare and whether she is really being kept as a married woman or she has been forced in illegal trafficking in a remote corner of the country where her parents are not in a position to go and find out the welfare of their daughter.

10. Having heard the learned counsel for the parties and considering the averments made by the petitioners in the transfer petition as well as the counter-affidavits, we are of the opinion that in the interest of justice and fair play and more particularly in the interest and for the convenience of the parties, the prayer of the petitioners for transfer of the criminal case from the Court of the learned Magistrate, Phillour, Jalandhar (Punjab) to the Court of learned Chief Judicial Magistrate, Barpeta (Assam) deserves to be allowed.

11. Accordingly, PS Case No. 21 of 2005 (titled *State v. Mohd. Fajloo*) pending before the learned Magistrate, Phillour, District Jalandhar, State of Punjab, is ordered to be transferred to the Court of learned Chief Judicial Magistrate, Barpeta, State of Assam, for consideration and disposal in accordance with law. The Principal District and Sessions Judge, Jalandhar, shall transmit the entire record of Case No. 21 of 2005 from the Court of learned Magistrate, Phillour to the Court of Chief Judicial Magistrate, Barpeta expeditiously.

12. The transfer petition shall stand disposed of accordingly.

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Court's jurisdiction is vested in no one. The exercise of the power of this Court is not circumscribed by any limitation as to who may invoke it. Where a judgment of acquittal by the High Court has led to a serious miscarriage of justice, this Court cannot refrain from doing its duty and abstain from interfering on the ground that a private party and not the State has invoked the Court's jurisdiction. We do not have slightest doubt that we can entertain appeals against judgments of acquittal by the High Court at the instance of interested private parties also. The circumstance that the Criminal Procedure Code, 1973 (in short 'the Code') does not provide for an appeal to the High Court against an order of acquittal by a subordinate court, at the instance of a private party, has no relevance to the question of the power of this Court under Article 136. We may mention that in *Mohan Lal v. Ajit Singh*⁵ this Court interfered with a judgment of acquittal by the High Court at the instance of a private party. An apprehension was expressed that if appeals against judgments of acquittal at the instance of private parties are permitted there may be a flood of appeals. We do not share the apprehension. Appeals under Article 136 of the Constitution are entertained by special leave granted by this Court, whether it is the State or a private party that invokes the jurisdiction of this Court, and special leave is not granted as a matter of course but only for good and sufficient reasons, on well-established practice of this Court."

17. In the circumstances, we deem it proper to remit the matter to the High Court for hearing the cases afresh and dispose them of in accordance with law.

18. The appeals are allowed.

(2008) 17 Supreme Court Cases 264

(BEFORE S.B. SINHA AND CYRIAC JOSEPH, JJ.)

PREMKUMAR AND OTHERS

.. Appellants;

Versus

STATE OF KERALA

.. Respondent.

Criminal Appeal No. 2088 of 2008[†], decided on December 19, 2008

A. Criminal Procedure Code, 1973 — Ss. 177 and 178 — Place of inquiry and trial — Factors required for consideration thereof — Dependence on fact situation in each case — Relevance of penal provisions under which accused charged — S. 178, when attracted — Held, word "ordinarily" occurring in S. 177 must be given its natural meaning — Provisions contained in S. 178 and other provisions would be attracted when S. 177 cannot be given effect to — These provisions in CrPC governing the field emanate from the doctrine that all crimes are local — Investigation

⁵ (1978) 3 SCC 279 : 1978 SCC (Cri) 378

[†] Arising out of SLP (Crl.) No. 3595 of 2008. From the Judgment and Final Order dated 11-2-2008 of the High Court of Kerala at Ernakulam in Crl. MC No. 3267 of 2004 (C)

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- into a crime, witnesses who are required to be examined for the purpose of proving commission thereof and other relevant factors which are required to be taken for consideration thereof lead to aforementioned inference — For the purpose of finding out the place, where inquiry or trial should be conducted, would be that the offence has taken place wholly or partly in the jurisdiction of one police station or wholly or partly in the jurisdiction of another police station and, thus, would depend upon the fact situation obtaining in each case — Provisions of Penal Code, 1860 under which accused is charged will also play an important role — Words and Phrases — “Ordinarily” — Criminal Trial — Jurisdiction — Territorial jurisdiction — Factors for (Paras 11 and 12)

- B. Criminal Procedure Code, 1973 — S. 406 — Transfer of criminal proceedings — On facts, validity of — Deceased allegedly committed suicide at her matrimonial house — Appellant 2, father-in-law of deceased, informed police of C about the unnatural death, pursuant where to, case under S. 174 CrPC registered — However, father of deceased lodged a complaint with police of K, on the basis of which an FIR under S. 304-B r/w S. 34 IPC lodged, because of which, Appellant 1, husband of deceased, arrested — Appellants’ application under S. 482 CrPC, inter alia, contending that police station of K had no jurisdiction to conduct an investigation in view of S. 177 CrPC and that FIR having already been lodged by Appellant 2, the second FIR not maintainable, dismissed by High Court — Sustainability — In view of the fact that police at C had already been informed, although *stricto sensu*, the same cannot be construed to be an FIR within the meaning of provisions of S. 154 CrPC, and, thus, FIR lodged at police station of K was maintainable — Held, in the peculiarity of instant case, on specific defence of appellant-accused about mental illness of deceased, the interest of justice would be subserved if investigation and consequent trial is transferred to police officer-in-charge, police station of C — All materials collected by police station of K, shall be transferred to officer-in-charge, police station of C — Officer-in-charge, police station of K, to ensure that in the event a charge-sheet is filed and cognizance of offence under S. 304-B IPC is taken, witnesses available within his jurisdiction shall be produced — Penal Code, 1860, S. 304-B r/w S. 34

(Paras 1, 5 to 7, 20 and 21)

- Y. Abraham Ajith v. Inspector of Police*, (2004) 8 SCC 100 : 2004 SCC (Cri) 2134; *Asit Bhattacharjee v. Hanuman Prasad Ojha*, (2007) 5 SCC 786 : (2007) 3 SCC (Cri) 31; *Naresh Kavarchand Khatri v. State of Gujarat*, (2008) 8 SCC 300 : (2008) 3 SCC (Cri) 614, *relied on*
Vidhya Devi v. State of Haryana, (2004) 9 SCC 476 : 2004 SCC (Cri) 1473, *considered*
Purushottamdas Dalmia v. State of W.B., AIR 1961 SC 1589 : (1962) 2 SCR 101; *L.N. Mukherjee v. State of Madras*, AIR 1961 SC 1601 : (1962) 2 SCR 116; *Banwarilal Jhunjhunwala v. Union of India*, AIR 1963 SC 1620 : 1963 Supp (2) SCR 338; *Mohan Baitha v. State of Bihar*, (2001) 4 SCC 350 : 2001 SCC (Cri) 710, *cited*

Appeal partly allowed

Y-M/40014/SR

Advocates who appeared in this case :

- K.V. Viswanathan, M. Gireesh Kumar, Avijeet Kr. Lala and Vijay Kumar, Advocates, for the Appellants;
P.V. Dinesh, Advocate, for the Respondent.

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2. (2007) 5 SCC 786 : (2007) 3 SCC (Cri) 31, *Asit Bhattacharjee v. Hanuman Prasad Ojha* 270f-g
3. (2004) 9 SCC 476 : 2004 SCC (Cri) 1473, *Vidhya Devi v. State of Haryana* 269f-g
4. (2004) 8 SCC 100 : 2004 SCC (Cri) 2134, *Y. Abraham Ajith v. Inspector of Police* 270a, 270d
5. (2001) 4 SCC 350 : 2001 SCC (Cri) 710, *Mohan Baitha v. State of Bihar* 270c
6. AIR 1963 SC 1620 : 1963 Supp (2) SCR 338, *Banwarilal Jhunhunwala v. Union of India* 270b-c b
7. AIR 1961 SC 1601 : (1962) 2 SCR 116, *L.N. Mukherjee v. State of Madras* 270b-c
8. AIR 1961 SC 1589 : (1962) 2 SCR 101, *Purushottamdas Dalmia v. State of W.B.* 270b-c

The Judgment of the Court was delivered by

S.B. SINHA, J.— Leave granted. c

2. Jeeja, the deceased was married on 12-9-1998 with the first appellant herein, Dr. Premkumar at Attingal. They had been residing at Chenkkottah, in the district of Tenkasi in the State of Tamil Nadu. She committed suicide at her matrimonial house which is in the State of Tamil Nadu on 14-2-2003. Appellant 2 herein, father-in-law of the deceased, informed Courtallam Police about the said unnatural death pursuant where to a case being Crime No. 64 of 2003 under Section 174 of the Code of Criminal Procedure (CrPC) was registered. d

3. The body of the deceased was subjected to inquest by the Sub-Divisional Executive Magistrate and Revenue Divisional Officer, Tenkasi and an enquiry was conducted by the said officer and a report was submitted before the Deputy Superintendent of Police, Tenkasi wherein, inter alia, it was stated: e

“On the basis of the inquest conducted, and on the basis of the enquiries made with the husband, father-in-law, mother-in-law, brothers-in-law, father, mother, brothers and sisters of the deceased, and on the basis of the evidence adduced by the reputed locals, and viewing the position and situation of the room in which the dead body was lying and other circumstances, I come to the conclusion that the death of Jeeja by hanging is not one due to dowry based cruelty. f

I request to make detailed investigation as to under what circumstances Smt Jeeja died by hanging.”

4. The Inspector of Police, Courtallam submitted a report before the Sub-Collector and Revenue Divisional Officer stating that Jeeja committed suicide on account of her mental illness. The investigation pursuant to the report under Section 174 CrPC was stopped stating: g

“It is truly evident that Jeeja, knowing that the fact of her mental illness had come to the knowledge of her husband and parents-in-law, and that despite the homoeopathy, ayurveda and allopathic treatment the mental disease had not subsided, became mentally depressed and as a h

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a result of the mental agony she had undergone she came to the decision of committing suicide by hanging, and accordingly on 14-2-2003 at 9.00 a.m. after telling her husband that she would not speak to him, and after the departure of her husband and father-in-law to the clinic at 9.30 a.m., she went to wash and dry the clothes at 10.30 a.m. and after that she went into the first room upstairs and after locking from inside the box lock of the wooden plank shutter of the door and placing the key on the table, and locking from inside the glass windows on the south, lower and north side of the said room, she went into the bedroom, and after locking the bedroom door from inside, she climbed on the small stool and the cot in the room and after tying a nylon churidar shawl at the ceiling fan clamp at the roof by a knot and tying the other end of the shawl around the neck by making a knot by herself jumped down from the cot and as a result of hanging the knot around her throat got tightened and caused suffocation that resulted in her death.

c Therefore the investigation of this case is stopped and further action dropped, and this final report is submitted.”

d 5. Father of the deceased, however, lodged a complaint with Kadakkavoor Police in the State of Kerala on or about 4-3-2003 on the basis whereof a first information report (for short “FIR”) was lodged for an offence punishable under Section 304-B read with Section 34 of the Penal Code (IPC). Appellant 1 was arrested from his residence at Shenkottai (Tamil Nadu) and produced before the Judicial Magistrate, First Class, Varkkala. A charge-sheet was filed by Kadakkavoor Police on or about 13-4-2004.

e 6. The appellants filed an application under Section 482 CrPC before the High Court of Kerala, Ernakulam, inter alia, contending that Kadakkavoor Police Station in the State of Kerala had no jurisdiction to conduct an investigation in view of the provision contained in Section 177 CrPC and in any event one FIR having already been lodged by Appellant 2 herein, the second FIR was not maintainable.

f 7. By reason of the impugned judgment, the said application having been dismissed, the appellants are before us.

8. Mr K.V. Viswanathan, the learned counsel appearing on behalf of the appellants would contend:

(i) As the entire cause of action arose within the jurisdiction of Police Station Courtallam in the State of Tamil Nadu, the impugned order cannot be sustained;

g (ii) By reason of insertion of Section 304-B IPC, a legal fiction having been raised, before a person can be prosecuted under the said provision all ingredients thereof must be strictly proved;

(iii) All crimes being local, the provisions of Section 177 CrPC subject to the exceptions contained in Sections 178, 179, etc., must ordinarily be followed; and

h (iv) In any view of the matter, the second FIR in the State of Kerala was not maintainable.

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(2008) 17 SCC

9. Mr P.V. Dinesh, the learned counsel appearing on behalf of the State of Kerala, however, would contend that the report made under Section 174 CrPC cannot be said to be a first information report within the meaning of Section 154 thereof as the same was meant to hold an inquest and submission of a report in respect thereof by an Executive Magistrate. The learned counsel would contend that one of the ingredients of an offence under Section 304-B IPC being demand of dowry and/or harassment of the deceased by her husband or relatives of the husband and a part thereof having taken place in the State of Kerala, Kerala Police had also jurisdiction to investigate into the said offence. a b

10. Jurisdiction to make an enquiry and trial is laid down in Chapter XIII CrPC. Section 177 thereof provides that:

“177. *Ordinary place of inquiry and trial.*—Every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed.” c

Section 178 however, inter alia, provides that when it is uncertain in which of the local areas an offence was committed or where an offence is committed partly in one local area and partly in another or where an offence is continuing one, and continues to be committed in more local areas than one, it may be inquired into or tried by a court having jurisdiction over any of such local areas. d

11. The word “ordinarily” occurring in Section 177 CrPC must be given its natural meaning. The provisions contained in Section 178 and other provisions would be attracted when Section 177 cannot be given effect to. These provisions in the Code governing the field emanate from the doctrine that all crimes are local. Investigation into a crime, the witnesses who are required to be examined for the purpose of proving the commission thereof and other relevant factors which are required to be taken for consideration thereof lead to the aforementioned inference. For the purpose of finding out in regard to the place, where the enquiry or trial should be conducted, would be that the offence has taken place wholly or partly in the jurisdiction of one police station or wholly or partly in the jurisdiction of another police station and, thus, would depend upon the fact situation obtaining in each case. e f

12. The provisions of the Penal Code under which the accused is charged will also play an important role. The appellants have been charged for commission of an offence under Section 304-B IPC. The said provision was inserted by Act 43 of 1986 with effect from 19-11-1986. By reason thereof a new offence was created. A new procedure for trial has been laid down. The ingredients of the said offence must be proved for bringing home a charge, namely, that the accused had killed the deceased for not satisfying his demand of dowry and she was subjected to cruelty or harassment by her husband or any relative of his for or in connection with demand for dowry. By reason of the said provision, a legal fiction has been created. What is, therefore, necessary is that such cruelty or harassment for or in connection with any demand for dowry must have been made “soon before her death”. g h

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The said words do not lead to fixation of a time-frame. It will depend upon the facts and circumstances of each case.

- a* 13. In support of the case of the State, Mr P.V. Dinesh has drawn our attention to Paras 7 and 8 of the first information report lodged by the father of the deceased which is in the following terms:

“7. Three months after the delivery, the petitioner’s daughter and child were again taken to Shengottai. Another complaint made by the second counter-petitioner alleging that the petitioner and the family members have misappropriated some gold ornaments gifted to the child by close relatives. Thereafter there were not much communication and the petitioner was under an impression that things were going on smoothly.

b

8. During December 2002 the counter-petitioners along with the daughter of the petitioner came to their residence at Trivandrum and stayed there for some days. During this period, the counter-petitioners again made a demand for sale of the property which stands in the name of the daughter of the petitioner and to hand over the sale proceeds to them. This demand was negated by the petitioner’s daughter and she was manhandled by the counter-petitioners and she was harassed repeatedly and even she was deprived of food for a day or two in this connection. She could not withstand the harassment for longer period; during the last week of January 2003, the first counter-petitioner along with Jeeja and child came to the petitioner’s residence. She came there agreeing the first counter-petitioner to discuss this issue with the petitioner, but ignoring the said agreement, she did not speak much about the sale of property is sold and the amount is paid to the counter-petitioners. The petitioner advised her to relax and stay here for some days. The wife of the petitioner was ailing as she underwent an operation and that may be reason why the demand of the counter-petitioners was not exactly disclosed to the petitioner. While she was staying at the petitioner’s house she was taken by the first counter-petitioner a week prior to 14-2-2003, disregarding the petitioner’s request to retain her at the petitioner’s house.”

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14. This Court in *Vidhya Devi v. State of Haryana*¹ observed as under: (SCC p. 480, para 6)

“6. ... The expression ‘soon before’ is a relative term which requires to be construed in the context of specific circumstances of each case and no hard-and-fast rule of any universal application can be laid down by fixing any time-limit.”

g

15. In this case nothing happened even a week prior to her death. Admittedly, no torture or harassment had taken place in regard to demand of sale of land in her favour. However, that may be a subject-matter of proof. We are making these observations only for the purpose of disposal of this application.

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1 (2004) 9 SCC 476 : 2004 SCC (Cri) 1473

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SUPREME COURT CASES

(2008) 17 SCC

16. So far as the jurisdiction of Kadakkavoor Police Station vis-à-vis the provisions of Section 177 CrPC is concerned, we may notice that in *Y. Abraham Ajith v. Inspector of Police*² this Court in a case arising under Sections 498-A and 406 as well as Section 4 of the Dowry Prohibition Act, 1961 held as under: (SCC p. 104, para 9)

“9. ‘All crime is local, the jurisdiction over the crime belongs to the country where the crime is committed’, as observed by Blackstone. A significant word used in Section 177 of the Code is ‘ordinarily’. Use of the word indicates that the provision is a general one and must be read subject to the special provisions contained in the Code. As observed by the Court in *Purushottamdas Dalmia v. State of W.B.*³, *L.N. Mukherjee v. State of Madras*⁴, *Banwarilal Jhunjunwala v. Union of India*⁵ and *Mohan Baiatha v. State of Bihar*⁶ exception implied by the word ‘ordinarily’ need not be limited to those specially provided for by the law and exceptions may be provided by law on consideration or may be implied from the provisions of law permitting joint trial of offences by the same court. No such exception is applicable to the case at hand.”

The question, therefore, which is required to be posed was as to whether any part of the cause of action arose within the jurisdiction of the court concerned.

17. This Court in *Y. Abraham case*², applied the meaning of the expression “cause of action” to hold: (SCC p. 105, para 17)

“17. The expression ‘cause of action’ is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for sitting; a factual situation that entitles one person to obtain a remedy in court from another person. In *Black’s Law Dictionary* a ‘cause of action’ is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In *Words and Phrases* (4th Edn.), the meaning attributed to the phrase ‘cause of action’ in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf.”

18. An identical question recently came up for consideration in *Asit Bhattacharjee v. Hanuman Prasad Ojha*⁷ wherein this Court in the peculiar facts obtaining therein although opined that a part of cause of action arose within the territorial jurisdiction of the Metropolitan Magistrate, Kolkata as a larger part arose in U.P. directed as under: (SCC p. 799, para 38)

2 (2004) 8 SCC 100 : 2004 SCC (Cri) 2134

3 AIR 1961 SC 1589 : (1962) 2 SCR 101

4 AIR 1961 SC 1601 : (1962) 2 SCR 116

5 AIR 1963 SC 1620 : 1963 Supp (2) SCR 338

6 (2001) 4 SCC 350 : 2001 SCC (Cri) 710

7 (2007) 5 SCC 786 : (2007) 3 SCC (Cri) 31 : (2007) 7 Scale 241

PREMKUMAR v. STATE OF KERALA (*Sinha, J.*)

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“38. We, therefore, are of the opinion that the interest of justice would be subserved if this appeal is disposed of with the following directions:

a

(i) Further investigation shall be carried out by CB CID of the State of Uttar Pradesh.

(ii) The respondent-accused shall surrender before the Chief Judicial Magistrate, Allahabad and their applications for grant of bail, if any, may be considered by the said court on its own merits.

b

(iii) The respondent-accused shall render all cooperation to the investigating officer. They shall appear before the investigating officer as and when directed, if released on bail.

c

(iv) Investigation shall be carried out inter alia on the premise that the jurisdiction to make investigation shall be subject to the ultimate decision of the Court of the Chief Metropolitan Magistrate, Calcutta as if investigations are being carried out by CB CID of the State of Uttar Pradesh in continuation of the investigation made by the officer in charge of Shakespeare Sarani Police Station. The Chief Metropolitan Magistrate, Allahabad shall be entitled to pass appropriate orders from time to time in this behalf.

d

(v) The report on completion of the investigation shall be forwarded to the Chief Metropolitan Magistrate, Calcutta who shall determine the question of his own jurisdiction at an appropriate stage.

e

(vi) This order, it is made clear, is being passed in exercise of our extraordinary jurisdiction under Article 142 of the Constitution of India. All authorities concerned are directed to carry out these directions.”

19. Yet recently in *Naresh Kavarchand Khatri v. State of Gujarat*⁸ this Court directed as under: (SCC pp. 304-05, paras 11-14)

f

“11. Mr Sorabjee, learned Senior Counsel and Mr Huzefa Ahmadi, appearing for Respondent 2 in each of the appeals, however, brought to our notice that charge-sheet has already been submitted. It was contended that proper investigation has been carried out in the matter and even the respondent-accused had been taken into custody and, thus, this Court, in a situation of this nature, should not exercise its jurisdiction under Article 136 of the Constitution of India.

g

12. Investigation has been carried out by the officer in charge of Police Station Waghodia only pursuant to the order of the High Court. If the order of the High Court is to be set aside, the investigation must be held to have been carried out without any jurisdiction. We are not herein concerned with the quality of the investigation but the effect of the order passed by the High Court. We do not know as to whether (sic the issue

h

of) proper investigation as contended, has in fact been considered by the court or not.

13. The first information report was lodged on 23-12-2006. The High Court appears to have been approached within a few days, namely, 26-12-2006. The impugned order has been passed on 28-12-2006. The first information report prima facie shows that a part of cause of jurisdiction arose within the territorial jurisdiction of Vadodara Police Station. We fail to understand as to how at such an early stage, the investigation should have been directed to be transferred, having regard to the fact that Waghodia Police Station where the 'institution' in question is situated is within the jurisdiction of Vadodara (District) and is, therefore, not a case where the accused would have been even otherwise gravely prejudiced in joining investigation.

14. We, therefore, are of the opinion that it is not a case where we should refuse to exercise jurisdiction under Article 136 of the Constitution of India. We, therefore, set aside the impugned orders. Consequently, the charge-sheets filed by Waghodia Police Station stand set aside. The police officer concerned of Vadodara Police Station would initiate appropriate investigation in the matter in accordance with law. Any document collected as also the statements of any witnesses recorded by the officer in charge of Waghodia Police Station, however, may be sent to the in charge of Vadodara Police Station."

20. In a case of this nature and following the aforementioned decisions and particularly in view of the fact that the police at Courtallam, Tamil Nadu had already been informed, although stricto sensu, the same cannot be construed to be an FIR within the meaning of provisions of Section 154 CrPC, and, thus, FIR lodged at Kadakkavoor Police Station was maintainable, we are of the opinion that the interest of justice would be subserved if the investigation and consequent trial is transferred to police officer in charge of Courtallam Police Station, Tamil Nadu. All the materials collected by Kadakkavoor Police Station, Kerala shall be transferred to the officer in charge of Courtallam Police Station, Tamil Nadu. The officer in charge of Kadakkavoor Police Station, Kerala, must ensure that in the event a charge-sheet is filed and cognizance of offence under Section 304-B IPC is taken, witnesses who are available within his jurisdiction shall be produced.

21. We have passed this unusual order keeping in view the specific defence raised by the appellants that the deceased had been suffering from some mental illness. However, with a view that a fair investigation is carried out we would direct that the Superintendent of Police of the district concerned at Tamil Nadu shall himself make an investigation and/or cause the same to be made by a highly responsible officer.

22. The appeal stands allowed to the aforementioned extent accordingly.

NITEM NO.45

COURT NO.3

SECTION XVIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

TRANSFER PETITION (CRL.) NO.172 OF 2007

L.N.AGARWAL

Petitioner(s)

VERSUS

MEERAJUDDIN N.PATEL & ANR.

Respondent(s)

[With appln(s) for ad-interim ex-parte stay and office report]

Date: 24/03/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s) Ms. Smriti Sinha, Adv.for
Mr. Vikas Mehta, Adv.For Respondent No.1 Mr. K. Maruthi Rao, Adv. for
Mrs. Anjani Aiyagari, Adv.

No.2 Ms. Anitha Shenoy, Adv.

UPON hearing counsel the Court made the following
ORDER

The Transfer Petition is allowed in terms of the signed order.

(Parveen Kr. Chawla)
Court Master(Anand Singh)
Court Master[Signed Order is placed on the File]
IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION(CRL.) NO.172 OF 2007

L.N.Agarwal

..Petitioner

versus

Meerajuddin N.Patel etc. etc.

..Respondents

ORDER

These Transfer Petitions have been filed under Section 406 Cr.P.C. seeking transfer of three cases (i) FIR No. 157/2006 dated 31.10.2006 titled Meerajuddin N.Patel vs. L.N.Agarwal, pending in the Court of the Principal Chief Judicial Magistrate, Bidar, Karnataka (ii) FIR No. 67/03 titled L.N.Agarwal vs.

Meerajuddin N.Patel & Anr., pending in the court of the Judicial Magistrate, First Class, Humnabad as CC No.74/2003 and (iii) Criminal Complaint Case No. 762/03 titled L.N.Agarwal vs. Meerajuddin N. Patel pending in the court of Judicial Magistrate, First Class, Humnabad, District Bidar, Karnataka from Karnataka to any other State.

State of Karnataka has not filed counter affidavit despite time.

Having heard learned counsel for the parties and having gone through the transfer petition and counter affidavit, we deem it appropriate to transfer the aforesaid cases from the State of Karnataka to Hyderabad, Andhra Pradesh.
TRANSFER PETITION (CRL.) NO.172 OF 2007

-2-

We order accordingly.

The District Judge, Bidar (Karnataka) is directed to transmit forthwith the entire record relating to the aforesaid three cases to the District Judge, Hyderabad(Andhra Pradesh), who on receipt of the same may assign these cases to a court of competent jurisdiction and dispose them of together.

The Transfer Petition is allowed accordingly.

.....J.
[ASHOK BHAN]

NEW DELHI;
MARCH 24, 2008.

.....J.
[DALVEER BHANDARI]

V

1

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRL.) NOS.175-178 OF 2014

SWAMI RAM DEV ..PETITIONER(S)

VERSUS

SHYAM RAJAK ETC. ..RESPONDENT(S)

W I T H

TRANSFER PETITION (CRL.) NOS.37-39 OF 2015

BABA RAM DEV ..PETITIONER(S)

VERSUS

ENGG.RAMSWARTH SAH ETC.ETC. ..RESPONDENT(S)

A N D W I T H

TRANSFER PETITION (CRL.) NOS.22-25 OF 2015

YOG GURU BABA RAMDEV ..PETITIONER(S)

VERSUS

LALAN RAM ETC.ETC. ..RESPONDENT(S)

O R D E R

Signature Not Verified

1.
Digitally signed by
Ramana Venkata Ganti
Date: 2015.08.24

These Transfer Petitions are filed under Section

15:38:15 IST
Reason:

406 of the Criminal Procedure Code, 1973 read with Order

XXXVI of the Supreme Court Rules for transfer of
2

Complaints/First Information Reports pending before the
Court of learned Magistrates' and various Police Stations
across the country.

2. We are informed that the first complaint was
filed by one Shri Shyam Rajak, respondent No.1-herein,

before the Chief Judicial Magistrate, Patna in Complaint Case No.26465 of 2014.

3. The petitioner in the transfer petitions before us requests to transfer the following cases to the Chief Judicial Magistrate, Lucknow or any other competent Court, as this Court deems fit:

"(i) transfer all complaints relating to or arising out of the complaints based on the press conference held on 25.04.2014 as also the Complaints pending before (i) Chief Judicial Magistrate, Patna being Complaint Case No.26465 of 2014 (Shyam Rajak Vs. Baba Ramdev) under Sections 354 IPC and 4,3 (10)(11) of the Scheduled Cases and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (ii) Chief Judicial Magistrate, Moradabad being Complaint Case No.6240/14 (Rameshwar Dayal Tauriah Vs. Baba Ram Dev) u/s.153(B), 295(A), 298, 500, 509 IPC and SC/ST Act, P.S.Majhola, Moradabad, (iii) Chief Judicial Magistrate Agra, being Complaint Case No.Nil/14 (Ramjilal Suman 'Vidhyarthi' Vs. Baba Ram Dev) under Sections 153(A)(B)(C), 504, 505(1)(B), 505(C), 505(2) and 120 B IPC, P.S.New Agra (iv) Additional Chief Judicial Magistrate, Agra, being Complaint Case No.M-28/14 (Rajendra Kumar Kardam Vs. Baba Ram Dev) under Sections 153(A)(B)(C), 504, 505(1)(B), 505

3

1(C), 505(2) and 120 B IPC Section 3(1)(10) SC/ST Act, 1989 P.S.Nai Ki Mandi Agra be transferred either to Chief Judicial Magistrate, Lucknow or any other competent court as this Hon'ble Court may deem fit."

"(i) transfer all complaints relating to or arising out of the complaints based on the press conference held on 25.04.2014 as also the Complaints pending before (a) Chief Judicial Magistrate, Muzaffarpur, Bihar being Complaint Case No.1048 of 2014 (Enng.Ramswarth Sah Vs. Baba Ramdev) under Sections 504, 506, 153(A), 124(B) Indian Penal Code; (b) Chief Judicial Magistrate, Dhanbad. Jharkhand being Complaint Case No.931 of 2014 (Subbal Ravidas Vs. Baba Ram Dev) under Section 3(1)(10) SC/ST Act. (c) Chief Judicial Magistrate First Class, Dhanbad, Jharkhand being Complaint Case No.928/2014 (Bablu Das Vs. Baba Ram Dev u/s.3(1)(10) SC/ST Act 1989 be transferred either to Lucknow or any other competent court as this Hon'ble Court may deem fit..."

"i. transfer all complaints relating to or arising out of the complaints based on the press conference held on 25.04.2014 as also the Complaints pending before :

a) Chief Judicial Magistrate, Hazipur, Vaishali being Complaint Case No.1226 of 2014 (Lalan Ram Vs. Yog Guru Baba Ramdev) under Sections 121, 153(B), 294, 504 Indian Penal Code and 3(x)(xi)

(xii) of SC/ST (P) Act dated 28.4.2014.

b) Special Chief Judicial Magistrate, District Kanpur City being Complaint Case NO.NIL/14 (Pankaj Gautam Vs. Baba Ram Dev) u/s.Section 509 IPC and 3(1)(10)SC/ST Act, 1989 PS Kotwali, Kanpur City dated 29.4.2014.

4

c) Chief Judicial Magistrate, Badmer, being Complaint Case No.NIL/14 (Bharmal Ram Vs. Yog Guru Swami Ramdeo) u/s Section 295 A, 354 IPC and 3(1)(10) SC/ST Act, 1989 dated 29.4.2014.

d) Additional Chief Judicial Magistrate (SD), No.8, Jaipur City, being Complaint Case No.NIL/14 (Ghanshyam Brijwashi Vs. Ramdev) u/s.Section 190 Cr.P.C.,3(1)(10) SC/ST (Prevention of Atrocities) Act, 1989, Section 500, 501(B), 502(B), 504, 505(B) and C, 505(2), 153-A, 171-C and 120-B IPC dated 30.4.2014, be transferred either to Lucknow or any other competent Court as this Hon'ble Court may deem fit;...."

4. This Court, while issuing notice to the respondents on 09.05.2014, had passed the following interim order:

"Issue notice returnable in ten weeks.

Dasti, in addition to the ordinary process, is permitted.

Subject to petitioner's depositing a sum of Rs.10/- Lacs (Rupees Ten Lakhs only) within two weeks in the Registry of this Court, further proceedings in complaints reference of which has been given in prayer clause (i) of the Transfer Petitions and complaints referred to in Annexures (A-1), (A-2), (A-3) and (A-6) of the compilation of additional documents shall remain stayed.

It is clarified that issuance of notice shall not be construed in any manner as an expression of opinion on the merits of the complaints."

5

5. In view of the interim order passed by this Court, the Complainant - Shyam Rajak was not present before the learned Magistrate on 03.03.2015. Since the

Complainant was not present on that day, the Magistrate has dismissed the complaint. It could be for the reason that none of the parties to the complaint had brought to the notice of the Court the interim orders passed by this Court. We neither find fault with the Complainant nor with the learned Magistrate.

In our view, there is every justification for the Complainant not to be present

before the learned Magistrate since there was already an interim order passed by this Court. Therefore, in our view, the order passed by the learned Magistrate requires to be set aside and the Complaint Case No.26465 of 2014 requires to be restored. Accordingly, we do so.

6. Since the petitioner seeks for transfer of all the complaints pending before various Courts/ Magistrates/ Police Stations, we deem it proper to order for transfer of all the Complaint Cases/ FIRs to the learned Chief Judicial Magistrate, Patna and direct him to hold the trial.

6

7. Since the complainants have to come from different places for their personal appearance, the learned CJM would be liberal in granting exemptions, if an application for exemption from their personal appearance is filed.

8. The Registry is now directed to transfer the amount which was deposited by the petitioner, along with accrued interest, to the learned CJM at Patna. The learned CJM will reimburse the aforesaid amount to the complainants towards their traveling expenses whenever they appear before the Court.

9. The Complainant(s) shall appear before the learned CJM, Patna on 21.09.2015.

10. Till such time, the interim order(s) granted by this Court, will enure to the benefit of the petitioner.

7

11. With the aforesaid observations, these transfer petitions are disposed of.

Ordered accordingly.

.....CJI.
(H.L. DATTU)

.....J.
(ARUN MISHRA)

.....J.
(AMITAVA ROY)

NEW DELHI;
AUGUST 20, 2015

8

ITEM NO.12

COURT NO.1

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Petition(s)(Criminal) No(s). 175-178/2014

SWAMI RAM DEV

Petitioner(s)

VERSUS

SHYAM RAJAK ETC.

Respondent(s)

WITH T.P.(Cr1.) Nos. 37-39/2015
(With appln.(s) for stay and)

T.P.(Cr1.) Nos. 22-25/2015
(With appln.(s) for stay and)

Date : 20/08/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Mr. Gaurav Kejriwal, Adv.
Mr. Keshav Mohan, Adv.
Ms. Amrita Narayan, Adv.
Mr. Amardeep Maini, Adv.

For Respondent(s) Mr. Jay Savla, Adv.
Mr. Prabhat K.C., Adv.
Ms. Renuka Sahu, Adv.
Mr. Ravi Mishra, Adv.

Mr. Debasis Misra, Adv.

Mr. Manoj Goreka, Adv.
Mr. Nagesh Gajghate, Adv.
Ms. Shashi Kiran, Adv.

9

UPON hearing the counsel the Court made the following
O R D E R

The Transfer Petitions are disposed of, in terms of the
signed order.

(G.V.Ramana)

AR-cum-PS

(Signed order is placed on the file)

(Vinod Kulvi)

Asstt.Registrar

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRIMINAL) NO.95 OF 2018

SMT.AFSANA

...Petitioner

VS.

STATE OF NCT OF DELHI & ORS.

...Respondents

O R D E R

Heard the learned counsel for the parties.

This petition has been filed under Section 406 of the Code of Criminal Procedure, 1908 for transfer of Case No.7424/2016 (S.C.No.31/15) in FIR No.356/15 titled State v. Abid Khan & Anr. from the Additional Sessions Judge/Special Fast Track Court, South District, Saket Court New Delhi to the Court of the Sessions Judge, Faridabad, Haryana.

After having heard the learned counsel appearing for the parties and taking into consideration the grounds taken in the transfer petition, we direct transfer of transfer of Case No.7424/2016 (S.C.No.31/15) in FIR No.356/15 titled State v. Abid Khan & Anr. from the Additional Sessions Judge/Special Fast Track Court, South District, Saket Court New Delhi to the Court of the Sessions Judge, Faridabad, Haryana.

Let the record of the case be transferred without delay.

The Transfer Petition is allowed in the afore-stated terms.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[NAVIN SINHA]

Signature Not Verified
Digitally signed by
ANITA MALHOTRA
Date: 2019.07.24
16:40:30 IST
Reason: [S]

New Delhi;
July 22, 2019.

ITEM NO.29

COURT NO.6

SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Petition(s)(Criminal) No(s). 95/2018

AFSANA

Petitioner(s)

VERSUS

STATE OF NCT OF DELHI & ORS.

Respondent(s)

(FOR ADMISSION and IA No.34559/2018-EXEMPTION FROM FILING O.T.)

Date : 22-07-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE
HON'BLE MR. JUSTICE NAVIN SINHAFor Petitioner(s) Mr. Raghavendra S. Srivatsa, AOR
Mr. Saurabh Agarwal, Adv.
Mr. Rahat Bansal, Adv.For Respondent(s) Mr. Piyush Beriwal, Adv.
Mr. R.K.Verma, Adv.
Mr. Praveen Gaur, Adv.
For Mr. B. V. Balaram Das, AORUPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

The transfer petition is allowed in terms of the
signed order.

Pending application shall also stand disposed of.

(ANITA MALHOTRA)
COURT MASTER(CHANDER BALA)
COURT MASTER

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
TRANSFER PETITION (CRIMINAL) NOS.276-277/2019

SHUBHRA SHAHI

Petitioner(s)

VERSUS

BHARAT RAI & ANR.

Respondent(s)

O R D E R

These transfer petitions have been filed by the petitioner-wife seeking transfer of proceedings in Case bearing No.BGR.2184/18 (FIR No.115/18) dated 09.05.2018, titled as "*State v. Bharat Rai*", pending in the Court of 5th Judicial Magistrate at Alipore South 24 Parganas, West Bengal; and, Case bearing No.BGR.2690 of 2018 (FIR No.150/R. Crime 18), titled as "*State v. Sandeep Kumar Rai*" pending in the Court of Ld. A.C.J.M. at Alipore, South 24 Parganas, West Bengal, to the Court of Judicial Magistrate, Patiala House Courts, New Delhi.

We have heard learned counsel for both sides and perused the petitions for transfer of the proceedings.

Considering the facts and circumstances on the record, we deem it appropriate to allow these transfer petitions.

Consequently, the proceedings in Case bearing No.BGR.2184/18 (FIR No.115/18) dated 09.05.2018, titled as "*State v. Bharat Rai*", pending in the Court of 5th Judicial Magistrate at Alipore, South 24 Parganas, West Bengal; and, Case bearing No.BGR.2690 of 2018 (FIR No.150/R. Crime 18), titled as "*State v. Sandeep Kumar Rai*" pending in the Court of Ld. A.C.J.M. at Alipore, South 24 Parganas, West Bengal, are transferred to the Court of Judicial Magistrate, Patiala House Courts, New Delhi.

The Courts at Alipore South 24 Parganas are directed to transmit the entire record to the transferee court immediately.

The Registry is directed to send a copy of this Order immediately to both the Courts for compliance.

The transfer petitions are allowed accordingly.

.....J.
[UDAY UMESH LALIT]

.....J.
[INDIRA BANERJEE]

NEW DELHI;
SEPTEMBER 26, 2019

ITEM NO.10

COURT NO.7

SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Petition (Criminal) Nos.276-277/2019

SHUBHRA SHAHI

Petitioner(s)

VERSUS

BHARAT RAI & ANR.

Respondent(s)

Date : 26-09-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Ram Ekbal Roy, Adv.
 Mr. Sunil Kumar Jha, Adv.
 Mr. Nandan K. Jha, Adv.
 Ms. Priyanka Das, Adv.
 Mr. Binay Kumar Das, AOR

UPON hearing the counsel the Court made the following
O R D E R

The Transfer Petitions are allowed, in terms of the signed
order.

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

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

(Signed Order is placed on the File)