

**In the Court of Dig Vinay Singh, Special Judge (PC Act) (CBI)-09,
(MPs/MLAs cases) Rouse Avenue Courts, Delhi**

SC 6/2025 (Filing Number 1078/2025)
(Case File No. 09/2022 SCPPS)
CNR Number: DLCT110010792025

Zila Sahkari Krishi Gramin Vikas Bank

Vs.

Smt. Savitri, Rajinder Bharti & Ors.

Date of arguments: 17.11.2025

Date of order: 20.11.2025

20.11.2025

ORDER

(In IA No. 2/2025 (Applicant/Accused Rajinder Bharti))

1. An application filed by accused Rajinder Bharti under IA No. 2/2025 is the subject of this order. In this application, the accused requests that this matter be transferred to the Court of Ld. ACJM, RADC, which handles MP/MLA cases, through the Principal District & Sessions Judge cum Special Judge, PC Act, CBI, as all the offences for which the two accused are facing trial are triable by a Court of Judicial Magistrate First Class, as far as Delhi is concerned.
2. The criminal trial in this case was received by this Court on transfer from the State of Madhya Pradesh pursuant to an order passed by the Hon'ble Supreme Court dated 07.10.2025 in a Transfer Petition filed by

the same applicant/accused, Rajinder Bharti, under Transfer Petition (Crl.) No. 1120/2024.

3. It is not in dispute that in the State of M.P., this criminal trial was proceeding before Ld. 3rd Additional Sessions Judge/Special Judge, MP/MLA Court, Gwalior, M.P., when it was ordered to be transferred to Delhi.
4. The two accused are facing trial in this case for offences under sections 120B/409/420/467/468/471 of the IPC. All these offences are indeed triable by the Court of Judicial Magistrate First Class, as far as Delhi is concerned.
5. However, in the State of M.P., due to an amendment specific to that State, enacted under M.P. Act No. 2 of 2018, some of these offences were made triable by a Court of Sessions. Therefore, the criminal trial under case number 3869/2019 MP. SCPPS09/2022 was being conducted before the Court of the Ld. Additional Sessions Judge/Special Judge in M.P. This case was at the stage of defence evidence before it was transferred from M.P. to Delhi. The case originated as a complaint filed by Zila Sahkari Krishi Gramin Vikas Bank against Smt. Savitri and the accused/applicant Rajinder Bharti. However, Savitri expired, and proceedings against her were abated by an order dated 19.01.2019. During the trial under Sec. 319 Cr.P.C., another accused, Raghuvir Sharan Prajapati, was summoned by an order dated 17.04.2023.

6. The request of the accused/applicant Rajinder Bharti in the present application is concise. He asserts that although offences U/s 409/467/468 & 471 of the IPC are triable by a Court of Sessions in the State of M.P., due to the above-mentioned amendment, this change is specific to that state. Since all those offences and other charges against the two accused are triable in the Court of Judicial Magistrate First Class in Delhi, the trial should henceforth be conducted by Judicial Magistrate First Class and not by a Sessions Court in Delhi. According to the applicant, the procedural law governing criminal trials in Delhi must be followed once the trial is transferred to this Court.
7. **The application lacks merit for the following reasons.**
8. Section 446(1) of BNSS 2023 (which corresponds to Section 406(1) of Cr.P.C.), reads as follows:

"446. (1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a Criminal Court subordinate to one High Court to another Criminal Court of equal or superior jurisdiction subordinate to another High Court."
9. Although the order of the Hon'ble Supreme Court does not explicitly state that the transfer of this criminal trial has been done under the mentioned provision, that is the provision that governs the transfer of a criminal trial pending in a court subordinate to any High Court, to any

criminal court subordinate to another High Court of a different State. Section 446(1) of BNSS specifically states that a transfer from a criminal court subordinate to one High Court to another criminal court subordinate to a different High Court can only be made to a criminal court of equal or superior jurisdiction.

10. Under section 446(1), the use of these words by the Legislature clearly indicates that a criminal trial can only be transferred to a Court in the Transferee State that is not lower in rank than the original Court. This maintains jurisdictional parity and prevents downgrading the trial forum. Despite variations in State amendments, the same level of Court must be maintained under this provision. Therefore, even if a Sessions trial at place A is transferred to another Court at place B, where the offence is usually triable by a Magistrate, the trial at place B must be conducted solely before the Sessions Court.
11. The applicant's argument against the legislative mandate is thus not acceptable.
12. If the interpretation provided by the applicant/accused, that according to the procedural laws of Delhi, the trial must be conducted only by a Court of Judicial Magistrate First Class, is accepted for the sake of argument, it could lead to an anomalous situation.
13. Section 409 of IPC prescribes punishment of life imprisonment or up to ten years' imprisonment with a fine. Similarly, Sec. 467 prescribe the same punishment. Section 468 of IPC specifies imprisonment for up to

seven years along with a fine. Section 471 of IPC specifies imprisonment as per the category of forgery.

14. If the interpretation given by the accused is accepted, a clever accused could try to have his case transferred to another State where those offences are tried by a Judicial Magistrate First Class, from a state where those offences are made Sessions triable by virtue of an amendment. This could potentially ensure that, if convicted, the maximum punishment he faces is not more than three years, since a Magistrate First Class cannot impose imprisonment exceeding that duration, whereas a Sessions court can inflict the maximum provided punishment for these offences.
15. As per Section 23 of BNSS, 2023 (corresponding to Sec 29 of Cr.P.C.), a Magistrate of First Class cannot pass a sentence of imprisonment exceeding three years, whereas a Chief Judicial Magistrate cannot pass a sentence of death or imprisonment for life or imprisonment exceeding seven years.
16. Although, in the present matter, since there is involvement of an MLA/Ex-MLA and the designated Courts are at the level of ACJM who are competent to impose imprisonment up to seven years, there can be cases where an accused who is not an MP/MLA and who succeeds to have his case transferred to another State, would practically ensure that he cannot be subjected to punishment beyond three years even if found guilty at a later stage of trial.

17. Precisely, this may have been one of the reasons the legislature ensured that when a criminal trial is transferred from one State to another, it should not be tried by any Court inferior to the Court that was originally trying the case in the transferring State. This helps prevent unscrupulous accused persons from employing clever or overly smart tactics to reduce their punishment.
18. For the foregoing reasons, the application has no merit and is **dismissed**. Consequently, the trial of the present case shall continue in this Court and shall proceed accordingly.
19. **IA No. 2/2025 is accordingly disposed of. A copy of this order be given dasti to both sides.**

*Announced in the open Court
on the 20th day of November, 2025.*

(DIG VINAY SINGH)
Special Judge (PC Act) (CBI)-09
(MPs/MLAs cases), Rouse Avenue Courts,
Delhi / 20.11.2025 (r)