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T.P.(Crl.) No. 152 OF 2003
ITEM No.36 Court No. 3

SECTION XVIA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition.(Crl.) No. 152/2003

SUSHILKUMAR SHARMA Petitioner (s)

VERSUS

POOJA LAKHANPAL & ANR. Respondent (s)

(With Appln(s). for stay and Office Report)

Date : 08/03/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI
HON'BLE MR. JUSTICE ASHOK BHAN

For Petitioner (s)

In Person

For Respondent (s)

For Complainant Mr. Aseem Mehrotra, Adv.
Mr. Abhijat P. Medh, Adv.

For State of Maharashtra Mr. Ravindra Kumar Adsure, Adv.

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

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

KALYANI
(RADHA R. BHATIA)
COURT MASTER

(SIGNED ORDER IS PLACED ON THE FILE.)

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRL.)NO. 152 OF 2003

SUSHIL KUMAR SHARMA
.....
PETITIONER (S)

VERSUS

POOJA LAKHANPAL & ANR.

.....

RESPONDENT (S)

O R D E R

This is a petition seeking transfer of Criminal Case No. 23/2003 entitled State of Maharashtra Vs. Sushil Kumar Sharma & Ors. from the Court of Judicial Magistrate (First Class) Chopra, Jalgaon within the jurisdiction of the High Court of Judicature at Bombay in the State of Maharashtra to any Metropolitan Magistrate within the jurisdiction of the High Court of Delhi.

The parties to the Criminal Case are related with each other by a marriage that has failed. The Complainant Pooja was married to Lakshmikant Lakhanpal, the son of the petitioner-Sushil Kumar Sharma. The complainant and her parents are residents of Chopra while some of the accused persons i.e. the petitioner and his son are residents of Delhi. One of the grounds in support of the prayer for transfer is that the family of the complainant is highly influential and the accused persons would not be safe at Chopra while reaching there for Court proceedings. The petitioner also points out that not only he and his son but even his daughter Padma who is epileptic, another daughter Ms. Koushki Kapoor who is married and residing in U.S.A., his old aged father and his sister who is also married and residing in Rajasthan have been implicated as accused persons. During the course of hearing the learned counsel for the complainant-Pooja made a statement at the Bar and under instructions that the complaint shall be kept confined only to Lakshmikant Lakhanpal and Sushil Kumar Sharma i.e. the petitioner herein and his son and the complainant shall not proceed against the other four accused persons named hereinabove.

The learned counsel further states that the complainant shall not proceed against any one other than Lakshmikant Lakhanpal and Sushil Kumar Sharma and the complainant shall seek withdrawal of the complaint so far as the accused persons other than the said two are concerned.

Having heard the petitioner appearing in person and the learned counsel for the State of Maharashtra as also the complainant Pooja, we are satisfied that the ends of justice do not call for the case being transferred from within the State of Maharashtra to outside the State especially in view of the statement made at the Bar today by the learned counsel for the complainant and that too under instructions. However, it appears to us necessary to change the venue of the trial from Chopra which may be an interior place to the District Headquarter i.e. Jalgaon.

The petitioner further submitted that his son Lakshmikant Lakhanpal is in service and, therefore, it would be highly inconvenient for him to take leave and attend the court at Jalgaon on every date of hearing. Suffice it to observe that the petitioner and his son are at liberty to seek exemption from personal appearance from the trial Court which prayer if made, we do not see any reason why would not be considered liberally and sympathetically unless and until for any reason the personal appearance of any of the two accused persons becomes necessary in the opinion of the Trial Court.

The transfer petition is partly allowed. The criminal case pending in the Court at Chopra, District Jalgaon is directed to be transferred to the Court of Sessions Judge, Jalgaon who may make over the case for trial either to the Court of Chief Judicial Magistrate and if not then to J.M.F.C. at Jalgaon. The learned counsel for the complainant assures that an appropriate application seeking withdrawal of the proceedings against accused persons other than Lakshmikant Lakhanpal and Sushil Kumar Sharma shall be filed by the complainant on the first date of hearing before the trial court to which the case is made over by the learned Sessions Judge, Jalgaon. The petitioner and his son Lakshmikant Lakhanpal shall be at liberty to seek exemption from personal appearance by setting out the grounds in support of such prayer.

However, we expect the trial court to avoid any unnecessary adjournment and record evidence on the date appointed inasmuch as the accused persons would be required to attend the Court at Jalgaon by proceeding from Delhi.

The transfer petition is disposed of in the above said terms. The Court at Chopra shall soon on communication of this order transfer the record of the proceedings in Criminal Case No. 23/2003 entitled State of Maharashtra Vs. Sushil Kumar Sharma & Ors. to the Court of learned Sessions Judge, Jalgaon.

.....J
(R.C. LAHOTI)

.....J
(ASHOK BHAN)

NEW DELHI;
MARCH 8, 2004.