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T.P.(Crl.) No. 188 OF 2001

ITEM No.18

Court No. 4

SECTION XVIA
A/N MATTER

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

Transfer Petition.(Crl.) No. 188/2001

MOHAN LAL JOSHI

Petitioner (s)

VERSUS

STATE OF PUNJAB & ORS.
(With Appln(s). for stay)

Respondent (s)

Date : 19/11/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE S.N. PHUKAN

For Petitioner (s) Mr. S.B. Upadhyay, Adv.
Mr. Sujit K. Singh, Adv.

For Respondent (s) Mr. Prem Nath Malhotra, Adv.(NP)
No.3

RR No.1 Mr. Ranbir Singh Yadav, Adv.
Mr. R S Suri, Adv.

UPON hearing counsel the Court made the following

O R D E R

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

.SP1 Hemalatha (HK Bhatia)
Court Master

(Signed order is placed on file)

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IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

Transfer Petition(Crl) No.188 of 2001@@
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Mohan Lal Joshi ...Petitioner

vs.

State of Punjab and Ors. ...Respondents

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Petitioner is a resident of Vancouver in Canada though hailing from Jalandhar, Punjab. He had chosen to file a complaint against five persons under Section 498A, 406 and 506 of IPC. The case is now pending before the Judicial Magistrate of First Class. Jalandhar. It is a police charge sheeted case. The petitioner wants the case to be transferred to Delhi as he has engaged a counsel from Delhi. The ground for transfer is that he is mortally afraid of going to Jalandhar as he and his witnesses are threatened by the opposite side. Learned counsel appearing for the State pointed out that one of the accused arrayed is a mentally retarded person. Any way those are no grounds to consider in favour or against the plea for transfer of a case from one place to another.

As the case has been charge sheeted by the police it is the look out of the Public Prosecutor to produce the witnesses. Petitioner cannot have the right to get

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the case transferred to the court of his choice. His role is only to give evidence as one of the witnesses. If he is afraid that he would be assaulted by the accused party we permit him to apply for police protection. If any such application is made the police shall afford protection to enable him to give evidence free from such disturbance. This condition is sufficient to allay the apprehension, if any, of the petitioner.

We dismiss the transfer petition subject to the above observations.

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(K.T. Thomas)@@

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New Delhi

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November 19, 2001

(S.N. Phukan)@@

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