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ITEM NO.41

COURT NO.7

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 (CRL.) NO(s). 266 OF 2011

MADHUBALA Petitioner(s)

VERSUS

NITIN RANA & ORS. Respondent(s)

(With appln(s) for stay and office report)

Date: 12/08/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR  
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Mr. MPS Tomer, Mr. Jabar Singh,  
Mr. Sanjay Krishna, Advocates  
Ms. Sandhya Goswami, Adv.

For Respondent(s) Ms. Fizani Hussain, Adv.  
Mr. Aftab Ali Khan, Adv.  
Ms. Vartika S.Walia, Adv. for  
M/S Corporate Law Group, Adv.

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

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

(Chandra Setia)	(Veena Khera)	
Sr.PA	Court Master	

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRL.) NO. 266 OF 2011

MADHUBALA Petitioner

VERSUS

NITIN RANA & ORS. Respondents

ORDER

The Respondents are facing prosecution for an offence punishable under Section 304B of IPC before a Court in Chauba, District Dibrugarh, Assam. The Petitioner who happens to be the mother of deceased Aarti, has now sought transfer of the said case from the Court at Dibrugarh to the Court of competent jurisdiction at Haridwar. That prayer is opposed by Respondents 1, 3, 4 and 5, Respondent No. 2 having passed away. We are told that out of 17 witnesses cited in the charge sheet filed against the accused, as many as 12 witnesses are from Chauba, Assam. All the same, learned counsel for the petitioner argued that Amit Chauhan who happens to be the complainant and brother of the deceased, Yogender Singh Chauhan father of the deceased, Madhu Bala mother of the deceased and Nitin Chauhan another brother of the deceased are all prosecution witnesses and residents of Haridwar in the State of Uttarakhand. It was contended that it will be extremely difficult for them to travel to Assam to appear in the Court and get their deposition recorded. It is also contended that the accused,

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respondents herein, belong to Muzaffarnagar in UP and have their ancestral property in that city. It would not, therefore, cause any prejudice to the said respondents if the case is transferred from Dibrugarh Court, Assam to Muzaffarnagar, UP.

It is true that some official witnesses cited in the charge sheet belong to Assam who shall have to appear before the transferee Court but the deposition of the family members of the deceased regarding the alleged dowry harassment and the demise of the deceased which according to the petitioner is a case of dowry death while according to the defence appears to be a suicide will be equally important. Be that as it may such of the official witnesses as may be found important by the public prosecutor can be summoned and directed to appear in the transferee Court at Muzaffarnagar in the interest of a fair trial keeping in view the peculiar facts and circumstances of the case.

We accordingly allow this petition and transfer Session Case registered under FIR No. 105/2009 pending before the Court of Sessions/Addl. Sessions Judge, Dibrugarh (Assam) to the Court of Sessions Judge at Muzaffarnagar for trial from the stage at which the proceedings are pending before the earlier mentioned Court. The accused persons shall appear before the transferee Court on 21st October, 2013 failing

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which the transferee court shall be free to take steps in accordance with law for securing their presence. The Dibrugarh Court shall transfer the relevant record to the transferee court at Muzaffarnagar without undue delay.

.....J  
(T.S. THAKUR)

.....J  
(VIKRAMAJIT SEN)

NEW DELHI  
DATED 12TH AUGUST 2013