

Court No. - 83

Case :- TRANSFER APPLICATION (CRIMINAL) No. - 663 of 2023

Applicant :- Awadhesh Barnwal 4 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Shree Prakash Upadhyay

Counsel for Opposite Party :- G.A., Surjeet Singh

Hon'ble Sanjay Kumar Pachori, J.

Rejoinder affidavit filed today by learned counsel for the applicants are taken on record.

Shri Shree Prakash Upadhyay, learned counsel for the applicants, Shri Pankaj Kumar Rai, learned brief holder for the State and Shri Surjeet Singh, learned counsel for the opposite party No. 2 are present.

Present Transfer Application has been filed to transfer the complaint case No. 10444 of 2018 (Nikhil Barnwal Vs. Awadhesh Barnwal and others) under Sections 323, 504, 427, 379, IPC, Police Station Kandharapur, District Azamgarh, pending in the court of Additional Chief Judicial Magistrate, Court No. 10, Azamgarh to any other competent court of District Judgeship Bhadohi at Gyanpur.

Learned counsel for the applicant submits that the applicants are accused in the above noted case. It is further submitted that applicant No. 4 is wife of opposite party No. 2 and the case arising out of a matrimonial dispute. It is further submitted that three other cases between the applicant No. 4 and opposite party No. 2 are pending as complaint case No. 812 of 2018, under Sections 498-A, 323, 504, 506, IPC and Section 3/4 of Dowry Prohibition Act, pending in the court of Additional Chief Judicial Magistrate, Bhadohi at Gyanpur, case No. 262 of 2018, under Section 125, Cr.P.C., pending in the court of Principal Judge, Family Court, Bhadohi at Gyanpur and case No. 892 of 2018, under Section 12 of Protection of Women from Domestic Violence Act, pending in the court of Additional Chief Judicial Magistrate, Bhadohi.

Learned counsel for the applicants has relied upon the judgment of **Anjali Ashok Sadhwani Vs. Ashok Kishinchand Sadhwani**,

AIR 2009 SC 1374 and Fatema Vs. Jafri Syed Husain @ Syed Parvej Jafferri, AIR 2009 SC 1773.

Learned counsel for the opposite party No. 2 vehemently opposed the prayer.

In view of the above facts and circumstances of the case, the present transfer application is liable to be allowed.

The instant transfer application is **allowed** and the complaint case No. 10444 of 2018 (Nikhil Barnwal Vs. Awadhesh Barnwal and others) under Sections 323, 504, 427, 379, IPC, Police Station Kandharapur, District Azamgarh, pending in the court of Additional Chief Judicial Magistrate, Court No. 10, Azamgarh is transferred to the competent court of District Judgeship Bhadohi at Gyanpur.

Let a certified copy of this order be sent to Sessions Judge, Azamgarh and Sessions Judge, Bhadohi at Gyanpur for necessary compliance and action.

Order Date :- 13.12.2023

T. Sinha