

Court No. - 21

Case :- TRANSFER APPLICATION (CRIMINAL) No. - 48 of 2022

Applicant :- Ram Sajeewan Jaiswal

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Civil Sectt. Lko. And Others

Counsel for Applicant :- Santosh Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Neeraj Tiwari,J.

1. Case called out.

2. Learned counsel for the applicant and learned AGA are present whereas no one has put in appearance on behalf of opposite parties no. 2 to 6.

3. The present application under section 407 Cr.P.C. has been filed to transfer the Criminal Case No.1136 of 2018; State versus Shailesh alias Seepu and otehrrs, arising out of Case Crime No.123 of 2017, under Sections 498-A, 323, 504, 506 IPC and Sections 3/4 of Dowry Prohibition Act, relating to Police Station - Kunda, District - Pratapgarh, from the Court of learned Additional Chief Judicial Magistrate, Kunda, Pratapgarh to any competent Court of District - Allahabad.

4. Case was heard on 21.09.2023 and the Court has passed the following order:-

"The case has been taken up in the revised list.

Shri Santosh Kumar Tripathi, learned counsel for the applicant and Shri Anurag Singh Chauhan, learned A.G.A. are present.

Service on respondent no.2 to 6 is still awaited.

List after three weeks alongwith fresh service report."

5. Again, case was heard on 17.11.2022 and the Court has passed the following order:

"The report so submitted by the office dated 17.11.2022 would reveal that as per communication received from the end of the Chief Judicial Magistrate, Pratapgarh, notice on opposite party no.2 and 4 has been served and on rest of the opposite parties through their heir.

Thus, in the considered opinion of this Court, private opposite parties have been sufficiently served.

However, in order to provide them a last opportunity to participate in the proceedings, list this case case on 30.11.2022. "

6. Learned counsel for the applicant submitted that applicant is

residing at Allahabad and opposite parties have filed Criminal Case No. 1136 of 2018 (State Vs. Shailesh @ Seepu and others) before Additional Chief Judicial Magistrate, Kunda, Pratapagarh, which is around 50 kilometers away from District Allahabad, therefore, it is very difficult for him to attend the Court proceedings at District Pratapgarh on each date fixed and defend effectively. He lastly submitted that Apex Court as well as many other Courts have taken constant view that in such cases convenience of the wife has to be taken into consideration. In support of his contention, he has placed reliance upon the judgment of Apex Court, Punjab and Haryana High Court, Madras High Court and this Court in the cases of *Sumita Singh Vs. Kumar Sanjay reported in 2001 LawSuit(SC) 363*, *Sweety Vs. Anuj Garg passed in T.A. No. 228 of 2014 decided on 11 August, 2015* and *D. Kokila Vs. R. Dillibabu passed in Transfer C.M.P. No. 201 of 2016 decided on 4 October, 2016*, *Satyam Goyal vs. Principal Judge, Family Court Gonda and others passed in Application Nos. 93 & 119 of 2017 decided on 3.8.2018*, *Smt. Dipti Saxena Vs. Ashish Srivastava and another* passed in *Transfer Application (Civil) No. 567 of 2019* decided on 14.12.2020 and *Swapnal Mishra vs. Saurabh Mishra* passed in *Transfer Application (Civil) Nos. 152 of 2019 & 111 of 2021* decided on 4.2.2022 respectively. Lastly, he submitted that recently this Court in the matter of *Smt. Shakshi Agarwal vs. Sri Ashutosh Agarwal* allowed the transfer Application filed by wife vide detailed judgment and order dated 4.2.2022 considering the different pronouncements made by the Apex Court as well as High Courts.

7. I have considered submissions advanced by learned counsel for applicant and perused the records as well as judgments relied upon by him. Facts of the case are unrebutted and controversy involved in the present case is squarely covered by the judgments relied upon by counsel for applicant.

8. Therefore, under such facts and circumstances of the case, the transfer application is **allowed**. The proceeding of Criminal Case No. 1136 of 2018 (State Vs. Shailesh @ Seepu and others) is withdrawn from the Additional Chief Judicial Magistrate, Kunda, Pratapagarh. Additional Chief Judicial Magistrate, Kunda, Pratapagarh is directed to transmit the record of Criminal Case No. 1136 of 2018 to Additional Chief Judicial Magistrate, Allahabad within 15 days from the date of production of certified copy of this order. Thereafter, endeavour shall be made to decide the aforesaid case expeditiously without granting any unnecessary adjournment either of the parties.

Order Date :- 26.10.2023/KR