

Neutral Citation No. - 2024:AHC-LKO:80160

Reserved on:- 07.11.2024

Delivered on:- 03.12.2024

Court No. - 13

Case :- TRANSFER APPLICATION (CRIMINAL) No. - 111 of 2024

Applicant :- Shikhar Gupta

Opposite Party :- State Of U.P. Thru. Its Additional Chief Secretary
Department Of Home And Anr.

Counsel for Applicant :- Vaibhav Kalia, Kavya Rastogi

Counsel for Opposite Party :- G.A.

and

Neutral Citation No. - 2024:AHC-LKO:80205

Case :- TRANSFER APPLICATION (CRIMINAL) No. - 97 of 2024

Applicant :- Nripendra Tripathi

Opposite Party :- State Of U.P. Thru. Its Addl. Chief Secy. Home Lko
And Another

Counsel for Applicant :- Pranshu Agrawal, Anadi Kumar Singh

Counsel for Opposite Party :- G.A., Priyam Kumar Singh

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the parties.
2. Both the aforesaid transfer applications are filed with common prayer, therefore, these are being decided by a common order with consent of learned counsel for the parties.
3. The applications are filed by the respective applicants with a prayer to transfer Sessions Case No. 1055 of 2024 (*State of U.P. vs. Neeraj and others*) arising out of F.I.R. No. 486 of 2024 under Sections 61(2) B.N.S./103(1) B.N.S. r/w 3(5) B.N.S., Police Station- Kotwali City, District- Hardoi from the Court of Sessions Judge, Hardoi to the Court of Sessions Judge, Lucknow.

4. Learned counsel for the applicants submitted that the case in question was lodged after committal of murder of a Senior Advocate, namely, Sri Kanishk Mehrotra in his chamber on 30.07.2024 at about 19:30 hours. On 05.09.2024, Ram Sagar, Advocate and Adarsh Kumar Pandey, Advocate filed memo in the bail application of the accused- Rajendra Tripathi, then a meeting was called in Bar Association, Hardoi, in which, it was decided by Committee of the Bar Association that no advocate would be allowed to do pairvi of the accused of killing of Sri Kanishk Mehrotra.

In support of their submissions, learned counsel for the applicants have relied on the decisions of Hon'ble Apex Court in the case of ***Gurcharan Das Chadha vs. State of Rajasthan*** reported in ***AIR 1966 SC 1418***, ***K. Anbazhagan vs. Superintendent of Police*** reported in ***(2004) 3 SCC 767***, ***Abdul Nazar Madani vs. State of Tamil Nadu*** reported in ***(2000) 6 SCC 204***, ***R. Balakrishna Pillai vs. State of Kerala*** reported in ***(2000) 7 SCC 129*** and ***Captain Amarinder Singh vs. Parkash Singh Badal and others*** reported in ***(2009) 6 SCC 260***.

It has vehemently been submitted by learned counsel for the applicants that opportunity to move discharge application was also not given by learned trial Court to the applicants and therefore they do not have any faith of fair trial, the trial of the case in question is to be transferred.

5. Learned A.G.A. as well as learned counsel for the complainant vehemently opposed the prayer of the applicants. They jointly submitted that on the request of accused applicants- Shikhar Gupta and Nripendra Tripathi, the order was passed for providing legal aid to them on 16.09.2024. With the consent of the applicants, their counsel had started working on their cases, and thereafter, charge was framed for killing of Sri Kanishk Mehrotra.

Learned A.G.A. has relied on the decisions of this Court passed in Transfer Application (Crl.) No. 133 of 2020 (*Tarun Raj Singh vs. State of U.P. and another*) dated 08.06.2020 and Transfer Application (Crl.) No. 101 of 2022 (*Suresh Chandra Tripathi vs. State of U.P. and 2 others*) dated 06.04.2022.

Learned counsel for the complainant further submitted that this was incorrect submission of learned counsel for the applicants that lawyers were not doing pairvi of the applicants' cases because the bail application dated 05.09.2024 was filed by Nripendra Tripathi before Sessions Judge through his counsel. After hearing, the said bail application was decided on 18.09.2024. Moreover, in the case of the applicant- Shikhar Gupta, on the basis of instructions of Rishabh Gupta (brother of the accused) four advocates, namely, Rajiv Kumar, Advocate, Registration No.UP014939/2010, Santosh Kumar Shukla, Advocate, COP165270, Mohd. Hanif Khan, COP5609/2012 and Chandan Verma, Advocate, Registration No.UP09417/2012 filed their vakalatnamas before learned Chief Judicial Magistrate, Hardoi on 30.09.2024. Further, three advocates, namely, Suresh Chandra Tiwari, Reg. No.4305/1992, Silpi Tiwari, Reg. No.5485/2023 and Deepak Kumar Dwivedi, Reg. No. UP12208/2010 filed vakalatnamas on behalf of accused- Virendra Singh Yadav. The bail application was also filed by accused- Aditya Bhan Singh alias Lalu Singh before learned trial Court through Advocate- Dhurvendra Kumar Singh. In this regard, this could not be a ground for transfer of the case that the lawyers were not doing pairvi of the case of accused persons due to resolution of the Bar Association, hence, the instant applications might be dismissed.

Learned A.G.A. further submitted that Senior Advocate, namely, Sri Kanishk Mehrotra was one of the tenants of late Dr. Ram Swaroop Asthana, retired IAS. After death of Dr. Ram Swaroop, his bungalow was sold out by his wife- Smt. Kusum Asthana and son- Prafull Asthana in year 2011, and then, it was purchased by one of the applicants- Nripendra

Triphathi, Virendra Singh alias Veerey Yadav, Neeraj Bajpai, Akhilesh Kumar Gupta, Aditya Bhan Singh and Nitish Kumar Gupta with sale consideration of Rs. 22 lakhs. Most of the tenants were evicted from the house in question, but Sri Kanishk Mehrotra filed a suit in the Court, in which, stay order was passed in his favour, therefore, he did not vacate the said premises. He next submitted that Neeraj Bajpai and Akhilesh Kumar Gupta sold their share to Shikhar Gupta with sale consideration of Rs. 50 lakhs, and Nitish alias Ranu Gupta sold his share to Nripendra Tripathi (one of the accused) with sale consideration of Rs. 22 lakhs and presently valuation of the same is about six crore. He also submitted that the purchaser started making pressure for vacating the premises, but the same was not vacated by Sri Kanishk Mehrotra on the strength of the stay order. In this connection, Aditya Bhan Singh entered into criminal conspiracy with his partners, namely, Virendra Yadav alias Veerey, Nripendra Tripathi and Shikhar Gupta for killing of Sri Kanishk Mehrotra in lieu of sum of Rs. 4 lakhs, out of which, sum of Rs. 1,40,000/- was given to Rajveer and Lalla in advance, and consequently, Rajveer, Lalla and Neeraj committed murder on 30.07.2024.

6. Considering the submissions of learned counsel for the parties and going through the contents of the pleadings, it is evident that the sole ground for transfer of the trial in question for killing of Senior Practicing Advocate, namely, Sri Kanishk Mehrotra is that Bar Association, Hardoi has resolved that Members of the Bar Association would not be permitted to pursue the case of the accused of the said killing. It is further evident from the submissions of learned counsel for the parties, from the contents of certified copies of the documents, bail applications as well as vakalatnamas provided by learned counsel for the complainant that other accused persons were engaging lawyers for doing pairvi of their cases. As in the case of the applicant- Shikhar Gupta, on the basis of instructions of Rishabh Gupta (brother of the accused), four advocates, namely, Rajiv Kumar, Advocate, Registration No.UP014939/2010, Santosh Kumar

Shukla, Advocate, COP165270, Mohd. Hanif Khan, COP5609/2012 and Chandan Verma, Advocate, Registration No.UP09417/2012 filed their vakalatnamas before learned Chief Judicial Magistrate, Hardoi on 30.09.2024. Further, three advocates, namely, Suresh Chandra Tiwari, Reg. No.4305/1992, Silpi Tiwari, Reg. No.5485/2023 and Deepak Kumar Dwivedi, Reg. No. UP12208/2010 also filed vakalatnamas for accused, namely, Virendra Singh Yadav.

7. In view of aforesaid, this Court is of the view that judgements relied by learned counsel for the applicants are not applicable in the present case. Therefore, the instant applications are misconceived and stand *dismissed*.

Order Date :- 03 December, 2024

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