

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT

TRANSFER CASE (CRIMINAL) NO. 6 /2013

BILASPUR

Single Bench

APPLICANTS:

1. Mohd. Sufiyan S/o Mohd. Usman caste Momin aged about 55 years R/o Dabripara, Baikunthpur, Thana & Tahsil Baikunthpur District Koriya (C.G.)
2. Ajija @ Rubi W/o Faisal D/o Mohd. Sufiyan aged about 30 years Caste Momin, R/o Dabripara, Baikunthpur, Thana & Tahsil Baikunthpur, District Koriya (C.G.)

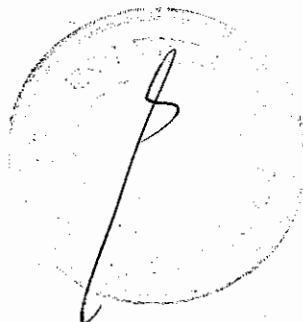
R.No.
Presented by Shri
dated 11.06.13

VERSUS

RESPONDENTS :

Complainant

1. The State of C.G. through District Magistrate Durg (C.G.)
2. Faisal Khan Caste Musalman aged about 47 years S/o Late Abubkar R/o Behind Kohka Uttasav Mangal Bhawan, Police Station Supela Supela Bhilai District Durg (C.G.)



Civil District - Durg (C.G.)

Revenue District - Durg (C.G.)

Police Station - Supela District Durg (C.G.)

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Crime No. - 684/2012

Offence U/s - 506, 507 & 34 of IPC

Status - Challan has been filed and
Criminal Case No. 3/2013
pending before the CJM
Durg District Durg (C.G.)

**APPLICATION UNDER SECTION 407 OF THE CODE OF
CRIMINAL PROCEDURE, 1973**



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HIGH COURT OF CHHATTISGARH AT BILASPUR

Transfer Petition (Criminal) No. 6 of 2013

PETITIONER

Mohd. Sufiyan & another

Versus

RESPONDENTS

State of Chhattisgarh &
another

**APPLICATION UNDER SECTION 407 OF THE
CODE OF CRIMINAL PROCEDURE, 1973**

Present:

Mr. Punit Ruparel, Advocate, for the Petitioners.
Mr. Aditya Sharma, Panel Lawyer, for Respondent No.1 - State.
Mr. Pawan Kesharwani, Advocate, for Respondent No.2.

(Single Bench : Hon'ble Mr. P. Sam Koshy, J.)

ORAL ORDER
(20-02-2014)

Heard.

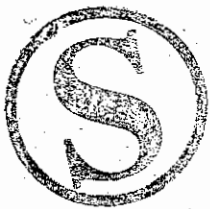
(2) By way of the present petition, the petitioners have sought for a relief of transferring of Criminal Case No.3/2013 pending in the Court of Chief Judicial Magistrate, Durg, to the competent Court at Baikunthpur District.

(3) According to the petitioners, respondent No.2 is the husband of petitioner No.2 (Ajija) and son-in-law of petitioner No.1 (Mohd. Sufiyan). Petitioner No.2 and respondent No.2 were married with each other under the Muslim customs and law some six years back. In due course of time, their relationship got strained. Therefore, they started living separately with each other.

(4) Subsequently, petitioner No.2 has filed a complaint against respondent No.2 for offence punishable under Section 498-A of IPC and for which a case is also pending in the Court in Baikunthpur District.

(5) Thereafter, it is stated that respondent No.2 has also filed a complaint against the petitioners at Police Station-Supela, Distt. Durg and, after investigation, Police Station-Supela has registered a Crime No.684/2012 against the present petitioners for offences punishable under Sections 506, 507 read with Section 34 of IPC and challan has also been filed. The said case has been registered as Criminal Case No.3/2013 and is pending in the Court of Chief Judicial Magistrate, Durg. It is this case which the petitioners

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want to get transferred to Baikunthpur District Court.

(6) Learned counsel for the petitioners submits that since a criminal case for offence punishable under Section 498-A of IPC is already pending against respondent No.2 in the Court in Baikunthpur District, the present case which has been initiated before the Chief Judicial Magistrate, Durg and registered as Criminal Case No.3/2013, may also be transferred to the competent Court at Baikunthpur District.

(7) On perusal of the pleadings that have brought by the petitioners in their petition, there does not appear to be any sufficient reason shown by the petitioners as to why the case should be transferred to the competent Court in Baikunthpur District. Neither any strong ground is reflected in the pleadings so as to establish that in the event if the criminal case that is pending in the Court of Chief Judicial Magistrate, Durg, is continued at Durg what prejudice would be caused to respondent No.2 or how the petitioners would be adversely affected.

(8) The sole ground of the petitioners is that since the petitioners have already filed a criminal case for offence punishable under Section 498-A of IPC against respondent No.2 in Baikunthpur District, for convenience sake the criminal case which has been filed by respondent No.2 against the petitioners and is pending in the Court of Chief Judicial Magistrate, Durg, should be transferred to the Court in Baikunthpur District.

(9) The said ground raised and challenged by the petitioners cannot be a sufficient ground for transferring a case simply from one District to another District. Even if we see the provisions of Section 407 of CrPC, it clearly says that only when the High Court finds that a fair and impartial inquiry of trial cannot be held in subordinate Court and then powers under Section 407 of CrPC should be invoked. In the instant case, no such ground has been either pleaded or established or substantiated by the petitioners so as to invoke the powers of this Court under Section 407 of CrPC.

(10) From the reading of the proceedings that have drawn before the two Courts below, would itself establish that both the proceedings are two independent proceedings being drawn in respect of two separate

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incidents that occurred on two different dates. Therefore, no fruitful purpose would be served in the event if the present case i.e. Criminal Case No.3/2013 which is pending in the Court of Chief Judicial Magistrate, Durg, is transferred to the competent Court in Baikunthpur District.

(11) All the other grounds pleaded by the petitioners are not very specific but are all vague grounds which cannot be sufficient for exercising of powers under Section 407 of CrPC by this Court.

(12) For the foregoing reasons, since sufficient grounds not have been established by the petitioners for transferring of Criminal Case No.3/2013 (pending in the Court of Chief Judicial Magistrate, Durg) to the competent Court in Baikunthpur District, the instant transfer petition being devoid of merits deserves to be dismissed.

(13) The transfer petition thus fails and is accordingly dismissed. No order as to costs.

Sd/-
P.Sam Koshy

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