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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **TR.P.(CRL.) 17/2015**

JUGAL KISHORE

..... Petitioner

Through: Petitioner in person

versus

THE STATE & ANR

..... Respondent

Through: Mr. Rajat Katyal, APP with Ms.
Ankita Goyal, Adv. with SI Umesh
Rana, PS Adarsh Nagar
Ms. Neha Kapoor for R-2

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

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28.09.2016

I have heard the petitioner in person, the learned APP as well as counsel for respondent No.2.

The petitioner has preferred the present transfer petition under Section 407 Cr PC to seek a direction that Sessions Case No.3/2015 arising out of FIR No.161/2007 registered at PS Adarsh Nagar under Section 308/342/506 IPC be transferred from the court of Sh. Pankaj Gupta, ASJ, Rohini Courts to the court of Dr. Kamini Lau, then ASJ for disposal of the said case, in which the trial is already over.

The submission of the petitioner is that in the aforesaid sessions case,

the matter was heard by Dr. Kamini Lau, then ASJ on 01.12.2014 and she had directed that the matter be listed for orders on 02.12.2014. Accordingly, the case was listed before Dr. Kamini Lau, then ASJ on 02.12.2014. However, the complainant moved two identical applications on the same day before the learned ASJ. Consequently, the learned ASJ did not pronounce orders on 02.12.2014. However, she observed that a perusal of the application shows that the attempt of the complainant is only to delay the conclusion of the case. The conduct of the complainant was noted by the court that, on the one hand she was claiming that there are chances of settlement, whereas on the other hand she had refused any talk for compromise and has opposed the proposal for sending the matter for mediation.

Since the Court was informed that a proceeding was pending before this court i.e. Crl MC No.2557/2012, which stood renotified on 19.12.2014- and in those proceedings this court had been informed that there are chances of settlement, the learned ASJ adjourned the proceedings before her for information regarding settlement, if any/ oral arguments on behalf of the complainant, and orders thereafter, on 24.12.2014. It was made clear that no request for adjournment shall be entertained. On 24.12.2014, the counsel for the accused was not available and, consequently, the matter was adjourned for arguments on 16.01.2015. It appears that a transfer petition had been moved before the District Judge for transfer of the case from the court of Dr. Kamini Lau, then ASJ and, thus, the file was not available on 16.01.2015. Since the transfer petition was listed before the learned District & Sessions Judge on 24.01.2015, the learned ASJ Dr. Kamini Lau adjourned the proceedings before her to 28.01.2015. No effective proceedings were

undertaken in the sessions case even on the said date.

The transfer petition preferred by respondent No.2/ complainant Smt. Umesh Latta being T.P. CrI No.3/2015 was disposed of by the learned District & Sessions Judge Sh. Yogesh Khanna on 05.02.2015. After noticing the development which had taken place in the matter, the learned District & Sessions Judge observed that since Dr. Kamini Lau has been transferred to another District and, in her place, Sh. Pankaj Gupta, ASJ had joined, the matter could not be transferred from one district to another by him. He directed that Sh. Pankaj Gupta, ASJ-II should decide the case expeditiously. He also observed that the applicant, namely, Umesh Latta had already sought to withdraw the transfer application in view of the fact that Dr. Kamini Lau, then ASJ, had since been transferred by the orders of Hon'ble the Chief Justice.

The grievance of the petitioner is that by adopting such modus operandi, respondent No.2 prevented Dr. Kamini Lau, then ASJ, from passing the orders on 02.12.2014. A perusal of the order dated 02.12.2014 indeed shows that the endeavour of respondent No.2 was to prevent the learned ASJ from passing orders, even though she had heard arguments on the previous day, i.e. 01.12.2014, and listed the case for orders on 02.12.2014.

To the aforesaid extent, the grievance of the petitioner appears to be justified that he has been subjected to unnecessary harassment on account of the fact with the turn of events, the judicial officer who had heard arguments in the case is no longer available to deal with the matter, as she had been transferred in the meantime and as on date, she is now officiating as the ADJ (Central).

Accordingly, the present petition is disposed of with a direction to the present incumbent Sh. Pankaj Gupta, learned ASJ to expeditiously hear and dispose of the sessions case without any delay. It is informed that the matter is listed before him on 05.10.2016 for arguments. The arguments shall proceed as far as possible on a day to day basis, and no adjournment shall be granted to either of the parties. Neither party shall move any further application and shall proceed with the hearing of the sessions case itself. The judgment shall be pronounced as early as possible after the arguments are concluded. A copy of this order be communicated to the learned ASJ.

Petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

SEPTEMBER 28, 2016

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