

HIGH COURT OF CHHATTISGARH, BILASPUR

TPCR No. 2 of 2017

- Smt. Poonam Jain (Parakh) W/o Kamal Parakh, Aged About 25 Years D/o Anopchand Jain, R/o Pankaj Provision Stores, Behind Jain Bawaan Charoda, B. M. Y. Tahsil Patan District Durg Chhattisgarh

---- **Petitioner**

Versus

1. Ful Chand Parakh S/o Kastur Chand Parakh, Aged About 65 Years R/o Gurudev Collection, Station Road Balod Tahsil And District Balod Chhattisgarh
2. Lila Devi W/o Ful Chand Parakh, Aged About 62 Years R/o Gurudev Collection, Station Road Balod Tahsil And District Balod Chhattisgarh
3. Ritesh Kumar Parakh, S/o Ful Chand Parakh, Aged About 35 Years R/o Gurudev Collection, Station Road Balod Tahsil And District Balod Chhattisgarh
4. Rajendra Parakh, S/o Ful Chand Parakh, Aged About 38 Years R/o Gurudev Collection, Station Road Balod Tahsil And District Balod Chhattisgarh
5. Kamal Parakh, S/o Ful Chand Parakh, Aged About 27 Years R/o Gurudev Collection, Station Road Balod Tahsil And District Balod Chhattisgarh
6. Chanchal Parakh, W/o Rajendra Parakh, Aged About 36 Years R/o Gurudev Collection, Station Road Balod Tahsil And District Balod Chhattisgarh
7. Diptee Parakh, W/o Ritesh Parakh, Aged About 30 Years R/o Gurudev Collection, Station Road Balod Tahsil And District Balod Chhattisgarh
8. State of Chhattisgarh Through Station House Officer Balod District Balod Chhattisgarh

--- **Respondent**

For the applicant	:	Mr. Barun Chakrabarty, Advocate
for the respondents	:	Mr. Vikram Dixit, Advocate
For the State	:	Mr. Anupam Dubey, Dy. Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

01.05.2017

1. This is a petition filed u/s 407 of the Code of Criminal Procedure for transfer of the proceedings from the Court of CJM, Balod to the Court of JMFC Bhilai, Distt. Durg. The

applicant is complainant and the non-applicants 1 to 7 are the accused in criminal case bearing No.250/2015 which is pending before the JMFC, Balod. The application has been filed by the complainant wife Poonam Jain on whose report against non-applicants 1 to 7 a case was registered u/s 498-A read with section 34 of IPC.

2. Learned counsel for the applicant would submit that there is every likelihood that she may be manhandled if she goes to adduce her evidence before the Balod Court for which a report was also made by the applicant, therefore, considering the convenience of the complainant, the case may be transferred to the Court of JMFC, Bhilai, Distt. Durg which is nearly 80 Kms., away from Balod and accordingly, the order may be passed.
3. Non-applicants 1 to 7 would submit that mere false allegations have been attributed to the non-applicants and they are attending to the Court on each and every day and neither any application has been filed before the JMFC nor any complainant has been made by the Police in this regard and only on flimsy grounds, the transfer petition has been filed, therefore, the prayer of the applicant may not be allowed.
4. Perused the order sheets of the courts below as also the summons issued to the complainant. Along-with the petition, a report dated 05.05.2015 addressed to Incharge of Police Station, City Kotwali, Balod was also filed, which purports that when the applicant was returning from the District Court after submission of application for obtaining certified copy in the proceedings, on the way she was abused by her husband and her brother-in-law and threat has also

been extended that she would be kidnapped. The state was directed to verify such report. The State counsel submits that such report was investigated and it was found to be fake and it was only recorded in *Rosnamcha Sanha* of investigation and no offence was found to have been committed.

5. A perusal of the file would show that the applicant is the wife and the case was registered against the husband and in-laws, total 7 family members, out of them Fulchand Parakh who is father in law is shown to be aged about 65 years and Leela Devi, wife of Fulchand is shown to be 62 years. Apart from that, Diptee Parakh wife of Ritesh Parakh and Chanchal, wife of Rajendra Parakh have also been arrayed in the criminal proceedings, which would show that out of 7 accused, 3 are ladies.
6. The reply filed by non-applicants 1 to 7 would show that the case is fixed for evidence of complainant and it shows that the complainant was also served with summons initially to appear before the Court on 20th Sept. 2016 and she did not appear. Subsequently when summons were issued for evidence on 06.12.2016, it was not served and an endorsement was recorded that she was out of station and the entire family was out of station. It also shows that bailable warrant of Rs.500/- was issued for appearance of the complainant on 03.01.2017 which has been returned unserved.
7. It is on record that after 2015, neither any application has been made to the Court nor any report was filed before the Police of the alleged threat. Though normally convenience of ladies are taken into account in the cases of like nature but at the same time, the age of non-applicants 1 & 2 who were

stated to be aged about 65 years and 62 years are relevant here and this fact cannot also be ignored that out of 7 accused/non-applicants, 3 are ladies. Further more, on perusal of the documents placed before this Court would show that a report was made by the applicant to the concerned Police Station that she was abused and threatened by the husband and in-laws and on investigation being conducted it was found to be baseless. Therefore, merely because of the apprehension of the applicant that her evidence would be tampered by the non-applicants and on her own wish, this Court is not inclined to direct the transfer the entire case to Court of JMFC, Bhilai Distt. Durg which is at a distance of 65-70 kms., from Balod where the proceedings are pending.

8. Considering such facts situation of the case, since the complainant has to appear only once to adduce her evidence, it is directed that the complainant shall appear before the Court of CJM, Balod to adduce her evidence on the next date which is said to be 07.07.2017 and the State is directed to give her complete protection till the evidence is recorded and the examination/cross-examination is over and shall also ensure the safety of the complainant so that she can come back to Durg after adducing her evidence.
9. This petition is disposed of with the aforesaid direction/ observations.

**Sd/-
GOUTAM BHADURI
JUDGE**