

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.160 of 2018**

1. Ashok Tiwari, aged about 58 years, son of Late Ramkesh Tiwari, Occupation Business, R/o Village Sarhari, P.S. Pratappur, District Surajpur, Chhattisgarh
2. Kamal Nayan Pandey, aged about 47 years, son of J.P. Pandey, Branch Manager, Zila Sahkari Kendriya Bank Maryadit, Branch Pratappur, District Surajpur, Chhattisgarh
3. Santosh Navik, aged about 36 years, son of Hari Narayan Navik, Samiti Prabandhak, Sahkari Samiti Dawankara, Tahsil Pratappur, District Surajpur, Chhattisgarh

Applicants No.2 and 3's fathers name and age were not mentioned by the Complainant before the Trial Court

---- Applicants

versus

1. Sunil Kumar Tiwari, aged about 42 years, son of Late Ramkesh Tiwari, R/o Godhanpur Nagar, Ambikapur, District Surguja, Chhattisgarh
2. The State of Chhattisgarh through Lok Abhiyojak, Surajpur, District Surajpur, Chhattisgarh

--- Respondents

For Applicants	:	Shri A.N. Bhakta, Advocate
For Respondent No.1	:	Shri Abhishek Pandey, Advocate
For Respondent No.2	:	Shri Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

27.11.2018

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The instant revision has been preferred by the Applicants/accused against the order dated 8.11.2017 passed by the Sessions Judge, Surajpur in M.Cr.C. No.7 of 2017, whereby the Sessions Judge has transferred Case No.93 of 2017 from the Court of Judicial Magistrate First Class, Pratappur to the Court of Chief Judicial

Magistrate, Surajpur.

3. Facts of the case, in brief, are that Respondent No.1 filed a complaint case against the Applicants before the Judicial Magistrate First Class, Pratappur on 5.8.2016 for the offence punishable under Sections 420, 467, 468, 471 and 409 of the Indian Penal Code. The Judicial Magistrate First Class took cognizance and vide order dated 27.3.2017 registered the complaint case for the offence punishable under Sections 420, 467, 468 and 471 of the Indian Penal Code. Thereafter, on 31.7.2017, the Complainant/Respondent No.1 filed an application under Section 408 of the Code of Criminal Procedure for transfer of the said case on the allegation that the Judicial Magistrate was taking personal interest in the matter. Vide the impugned order dated 8.11.2017, the Sessions Judge has transferred the case from the Court of Judicial Magistrate First Class, Pratappur to the Court of Chief Judicial Magistrate, Surajpur. Hence, this revision by the Applicants/accused.
4. Learned Counsel appearing for the Applicants/accused submits that the Complainant/Respondent No.1 by making a false allegation against the concerned Judicial Magistrate has obtained the transfer order from the Sessions Judge. He further submits that the Judicial Magistrate has no personal interest in the matter. Respondent No.1 has not placed any material to show that the Judicial Magistrate has any personal interest in the matter. Therefore, the impugned order is liable to be set aside.
5. Learned Counsel appearing for the Complainant/Respondent No.1

submits that after due consideration of the facts and circumstances of the case and on the basis of request made by the Judicial Magistrate First Class, the Sessions Judge has passed the order of transfer of the case. Therefore, there is no perversity in the impugned order.

6. I have heard Learned Counsel appearing for the parties and perused the record with due care.
7. The record of the Court below reflects that some personal allegation has been made against the Judicial Magistrate, but the Sessions Judge has not transferred the case only on that ground. He has transferred the case also taking into consideration the request made by the Judicial Magistrate himself for transfer of the case. What prejudice is caused to the Applicants from transfer of the said case has not been shown by them.
8. I find no merit in the revision. It is, therefore, dismissed.
9. Record of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge