

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

% **Judgment Reserved On: 21.11.2019**
Judgment Pronounced On: 18.02.2020

+ **TR.P.(CRL.) 1/2019 & CRL.M.A. 124/2019 (stay)**

PRIYANKA BATRA

..... Petitioner

Through **Mr. Pradeep K. Bakshi and Mr.**
Ghanshyam Jha, Advocates

versus

SANDEEP GROVER & ANR

..... Respondents

Through **Mr. Dinesh Goyal, Advocate**
for R-1
Mr. G.M. Farooqui, APP for the
State/R-2

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J.

1. This Transfer Petition under Section 407 Cr.P.C. is filed by the petitioner for transfer of criminal Case (complaint case) **bearing No. 15537/14**, titled **“Sandeep Grover vs. Priyanka Batra”** pending in the court of **Ld. Metropolitan Magistrate, Sh. Anuj Kumar Singh**, District South(Saket), to the court of **Sh. Babru Bhan, Ld. Metropolitan Magistrate, Central District, Tis Hazari Courts**, where

criminal complaint bearing no. 511812/2016 titled “Sandeep Grover vs. Priyanka Batra & Ors.” is pending.

2. It is submitted that respondent no. 1 had filed a complaint bearing no. 511812/2016 under Section 471 IPC on 17th October, 2013 against the petitioner and her husband i.e. Vivek Batra at Tis Hazari Court alleging that a forged Will dated 29th October, 2002 of one Ashok Malik was used as the original Will in a civil case in Tis Hazari Courts in the year 2006 by the petitioner and her husband and the said complaint case is pending before the court of Sh. Babru Bhan, Central District, Tis Hazari, Delhi. It is submitted that another complaint case bearing no.15537/14 under Section 471 IPC for alleged use of forged Will was also filed by the respondent no. 1 against the petitioner on 30.06.2014 and the same is pending in the court of Sh. Anuj Kumar Singh, Ld. M.M., South District, Saket Court, Delhi. Since both the complaints pertain to the alleged use of forged Will on two different instances and, therefore, two separate complaints falling in the respective Districts have been preferred by respondent no. 1. However, it is submitted that principal case of alleged forgery of the Will of Sh. Ashok Malik was pending at Behror, District Alwar,

Rajasthan where an FIR no. 61/2006 was registered on the complaint of respondent no. 1 alleging forgery of the aforesaid Will against five accused persons including the petitioner. The investigating officer had, however, filed a 'closure report' under Section 173 of Cr.P.C. Thereafter, respondent no. 1 had filed a protest petition and Ld. Court had taken cognizance under Section 200 Cr.P.C. and after recording the evidence of the respondent no. 1, it had summoned all the accused persons under Section 420/467/471 and 120B IPC.

3. It is next submitted that petitioner had filed a transfer petition before the Hon'ble Supreme Court for transfer of the aforementioned criminal trial pending before the Court at Behror, District Alwar, Rajasthan to the court of Sh. Babru Bhan, Ld. MM, Central District, Tis Hazari Courts, Delhi where another complaint case bearing no. 511812/2016 filed by the respondent no. 1 against the petitioner was pending trial. The said transfer petition was allowed by Hon'ble Supreme Court vide order dated 24.09.2019. It is submitted that since the cases pending at Saket Courts and Tis Hazari Courts have the same subject matter as all these complaint cases have been filed against the petitioner for the alleged use of a forged Will dated 29th

October, 2002 of Ashok Malik, there is a possibility of conflicting decisions. It is, therefore, prayed that complaint case pending at Saket Courts be transferred to Ld. MM at Tis Hazari Courts in the interest of justice.

4. In reply, respondent no. 1 has stated that instant petition is an abuse of the process of law and has been filed only to delay and prolong the matter. The petitioner and her husband are guilty of forging a Will dated 29.10.2002 of Late Ashok Malik and have dishonestly and fraudulently used the same as genuine in different proceedings on different occasions including the court at Behror, District Alwar, Rajasthan and at Tis Hazari, Delhi and police station Hauz Khas, New Delhi. It is submitted that Ashok Malik was not even present in India when the said Will is alleged to have been executed by him. It is averred that each and every use of the forged Will by the petitioner and her husband constitute a distinct offence calling for a separate action under the law. The only ground set forth in the petition is possibility of conflict of decisions by two courts which is completely misconceived. It is submitted that there is no possibility of conflict of decisions in criminal cases for the reason that

each case is disposed of on the basis of its peculiar facts and on the basis of evidence adduced therein. Mere possibility of conflicting decisions cannot be a ground for transfer of a criminal case since the accused is always at a liberty to use and take benefit of a judgment in his/her favour passed in one case by tendering the same in other case to the extent of its relevancy under the provisions of the Evidence Act. It is, therefore, prayed that petition be dismissed in the interest of justice.

5. I have considered the rival submissions. The main case arising out of FIR no. 161/2006 dated 06.07.2006, titled “State & Anr. vs. Vivek Batra & Ors.” which was pending in the Court at Behror, District Alwar, Rajasthan has been transferred to Tis Hazari Courts, Delhi by Hon’ble Supreme Court where another case in the Court of Mr. Babru Bhan, Ld. MM, (Central Distt.), Tis Hazari Courts, Delhi is pending. The main issues in both the cases i.e. one pending at Saket Courts and another one at Tis Hazari Courts is regarding the use of forged Will of Ashok Malik. In these circumstances, it will be in the interest of justice, if both the cases are tried by one court so as to avoid conflicting decision on

the point whether the Will is forged or not. Since the main case arising out of FIR No. 161/2006 registered in Alwar District, Rajasthan has already been transferred by Hon'ble Supreme Court to Tis Hazari Courts and is pending in the Court of Mr. Babru Bhan, Ld. MM, (Central Distt.), Tis Hazari Courts, Delhi and another case bearing 511812/2016 is already pending before him, the case bearing no. 15537/2014, titled **“Sandeep Grover vs. Priyanka Batra”** pending at Saket Courts, New Delhi is also transferred to the court of Ld. MM Mr. Babru Bhan or his successor court (in case he stands transferred). The present petition is, therefore, allowed.

6. Ld. MM at Saket Court is directed to send the file of case bearing no. 15537/14 titled **“Sandeep Grover vs. Priyanka Batra”** to the court of Ld. District & Sessions Judge, Central District, Tis Hazari Courts immediately. Let the parties appear before the Ld. District & Sessions Judge, (Central District) Tis Hazari Courts on 20.03.2020 for transferring the case to the court of Ld. MM Mr. Babru Bhan or his successor court

7. Copy of the order be sent to the concerned courts for compliance.
8. The petition stands disposed of accordingly.

BRIJESH SETHI, J

18th Feb., 2020/(AK)

