

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

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**Order Reserved On: 21.11.2019**  
**Order Pronounced On: 13.01.2020**

+ **TR.P.(CRL.) 32/2019 & CRL.M.A. 9818/2019 (stay)**

**RAKESH & ANR**

..... Petitioners

Through Mr. Aditya Vikram, Mr.  
Avinash and Mr. Dhruv  
Chaudhary, Advocates

versus

**STATE & ANR.**

..... Respondents

Through Mr. G.M. Farooqui, APP for  
the State/Respondent no.1  
with SI Suraj Kumar, P.S.  
Kapashera, South District,  
New Delhi

Mr. S.P. Kaushal, Mr. Rahul  
Tyagi and Mr. Kumar Bhanu,  
Advocates for R-2

**HON'BLE MR. JUSTICE BRIJESH SETHI**

### **J U D G M E N T**

**BRIJESH SETHI, J**

1. The petitioners have filed present petition u/s. 407 CrPC r/w. Section 482 CrPC seeking transfer of the proceedings emanating from **FIR No. 272/17**, u/s. 323/324/354/452/34 IPC & 25/54/59

Arms Act and **FIR no. 273/17**, u/s. 308/34 IPC, PS Kapashera, South-West, from Dwarka Courts to Patiala House Courts for the reason that petitioners are not being allowed to properly present their case. The respondents, who are lawyers and practicing at the Dwarka District Courts, do not allow the petitioners to present their case properly in the concerned court. They have created a terror in the mind of the petitioners. It is, therefore, prayed that proceedings emanating from **FIR No. 272/17**, u/s. 323/324/354/452/34 IPC & 25/54/59 Arms Act and **FIR no. 273/17**, u/s. 308/34 IPC, PS Kapashera, South-West be transferred from Dwarka Courts to Patiala House Courts.

2. Ld. Counsel for the respondent no.2, on the other hand, has argued that cases cannot be transferred merely on the asking of the petitioners/ accused persons as there is nothing on record to suggest that petitioners were threatened or not allowed to present their case properly through their Ld. Counsels in the court concerned. No complaint to this effect has been made before the Ld. Distt. & Sessions Judge, Dwarka, New Delhi. It is submitted that everyone has a right to have a lawyer of his choice but no one has any right to

have any court of his/ her choice. Ld. Counsel appearing on behalf of respondent no.2 has submitted that neither respondent no.2 nor anyone on her behalf, has never misbehaved, manhandled or threatened the petitioners and their Ld. Counsels and has further assured that there will not be any threatening or manhandling of the petitioners and their counsels in future as well.

3. I have heard the rival submissions and perused the record. Though it is submitted by Ld. Counsel for the petitioners that petitioners are not allowed to properly represent their case and petitioners have not been able to engage any advocate of their choice. Perusal of the record, however, reveals that no complaint was made to the concerned MM that the petitioners are not being allowed to present their case properly or they have not been able to engage an advocate of their choice. Perusal of record further reveals that no complaint has been made to Ld. Distt. & Sessions Judge, Dwarka Courts, New Delhi to the effect that lawyers of the petitioners are not being allowed to make submissions on their behalf. Perusal of the record further reveals that no case was reported to the police of any incident of manhandling or any act of

violence by the respondent no.2 or her counsels. The FIRs in question pertain to police station Kapashera which falls under the jurisdiction of the District South-West, Dwarka Courts, New Delhi. Record further reveals that closure report has been filed in the FIRs in question and protest petition has been allowed by the Ld. Trial Court. There is nothing on record which suggests that Ld. Trial Court is not acting fairly or has been influenced by the respondent no.2 or her counsels and petitioners are not being allowed to present their case. This Court had also questioned one of the petitioner, who was present in the Court, about the allegations levelled against respondent no.2. He had submitted that no fighting had taken place inside or outside the Court. There was only some altercation between the parties but no complaint was lodged with any authority in this regard.

4. In view of the above facts appearing on record as well as assurance given by Ld. Counsel for the respondent no.2 to the Court that respondent no.2 or her counsels have not threatened, manhandled or misbehaved and will never do so in future and the petitioners and their counsels can make their submissions without

any threat or pressure from any source whatever, no grounds are made out to transfer the proceedings emanating from **FIR No. 272/17**, u/s. 323/324/354/452/34 IPC & 25/54/59 Arms Act and **FIR no. 273/17**, u/s. 308/34 IPC, PS Kapashera, South-West, from Dwarka Courts to Patiala House Courts and present transfer petition along with pending application is dismissed accordingly.

**JANUARY, 13, 2020**  
(Amit)

**BRIJESH SETHI, J.**

