

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on : 18/02/2021Order Delivered on: 23/03/2021**TPCR No. 18 of 2017**

- Dinesh Verma S/o late Shiv Shankar Verma, aged about 51 years, R/o Near Manohar Talkies, Juna Bilaspur, Tah. & District Bilaspur (C.G.)

---- Petitioner**Versus**

1. Ashok Agrawal S/o late Shri Jagmohandas Agrawal, aged about 49 years, Director of M/s Bilaspur Infrastructure Pvt. Ltd. R/o Kranti Nagar, P.S. Tarbahar, Tah. & District Bilaspur (C.G.).
2. Shri Sanjay Khandelwal, aged 45 years, S/o Mulchand Khandelwal, R/o Masanganj, P.S. Civil Line, Tah. & District Bilaspur (C.G.)
3. Santosh Singh Thakur, aged 44 years, S/o Shri N.P. Thakur, R/o Masanganj, P.S. Civil Line, Tah. & District Bilaspur (C.G.)

---- Respondents

For Petitioner	:	Mr. Akhtar Hussain, Adv.
For Respondent No.1	:	Mr. Saurabh Dangi, Advocate.
For Respondent No.2 & 3	:	Mr. Atul Kumar Kesharwani, Advocate

Hon'ble Smt Justice Rajani Dubey**C A V Order****23/03/2021**

Heard.

Admit.

1. This petition has been filed by the petitioner for transfer of Case No.85/2016 pending before the Court of Chief Judicial Magistrate, Raigarh, to the Court of Chief Judicial

Magistrate, Bilaspur (C.G.).

2. Learned counsel for the petitioner submits that non-applicant No.1-Ashok Agrawal (complainant) has filed two complaint cases one at Bilaspur and second at Raigarh, and in both the cases the petitioner is an accused. On 07.10.2014, complainant filed a complaint case before the Chief Judicial Magistrate, Bilaspur under Sections 499, 500, 501, 34 read with section 120-B and 109 of the IPC. Thereafter, on 09.04.2015, he again filed another complaint case before the Chief Judicial Magistrate, Raigarh with same grievance, which is pending before the learned Chief Judicial Magistrate, Raigarh. He also submits that the complainant deliberately trying to misuse the process of law and filed complaint case before Chief Judicial Magistrate, Raigarh with same grievance. It seems from the conduct of complainant that just to harass the petitioner, he has filed complaint case before the Court of Chief Judicial Magistrate at Raigarh. He further submits that the parties and cause of action are same in both the complaint cases. Thus, in order to ensure all possible proceeding relating to same cause of action, it would be just and proper, in the interest of justice, to transfer the complaint case No.85/2016 pending before Chief Judicial Magistrate, Raigarh, to the Court of Chief Judicial Magistrate, Bilaspur. In support of his submission, he placed reliance on the decision of Hon'ble Supreme Court in the matter of **Maruti Clean Coal & Power Ltd. Vs. B.L. Wadhera and others**¹.
3. Learned counsel for non-applicant No.1-Ashok Agrawal strenuously opposed the prayer of the petitioner and submits that the witnesses in both the case are different. Some witnesses are residing at Raigarh and convenience

¹ (2008) 1 SCC (Cri) 514

of the witnesses are also equally important. In support of his submission, he placed reliance on the decisions of Hon'ble Supreme Court in the matter of **Abhiram Veer V. North Eastern Regional Agricultural Marketing Corporation Ltd.**², **Abdul Nazar Mdani Vs. State of T.N. and another with M. Mohammed Ansari and others V. State of T.N. and another**³ and **Rajesh Talwar V. Central Bureau of Investigation and others with Nupur Talwar Vs. Central Bureau of Investigation and others**⁴.

4. Learned counsel for non-applicants No.2 and 3 has also supported the prayer of the petitioner.
5. Heard learned counsel for the parties and perused the material on record.
6. A bare perusal of copies of both the complaint cases goes to show that both the complaint cases have been filed by the non-applicant No.1-Ashok Agrawal against the same accused persons i.e. the petitioner and non-applicants No.2 and 3, and the same have been filed on the ground that on 20.06.2013, some defamatory articles were published by the accused persons against the complainant in newspaper which caused huge loss to his business and also tarnished his image in the society. The grounds raised in the complaint cases are identical.
7. Considering the facts and circumstances of the case, this Court, in the interest of justice, feels it appropriate to transfer Complaint Case No.85/2016 pending before the Court of Chief Judicial Magistrate, Raigarh (C.G.) to the Court of Chief Judicial Magistrate, Bilaspur (C.G.).
8. Accordingly, the instant transfer petition is allowed.

2 (2000) 10 SCC 433

3 (2000) 6 SCC 204

4 (2012) 4 SCC 217

Complaint Case No.85/2016 pending before the Court of Chief Judicial Magistrate, Raigarh (C.G.) is transferred to the Court of Chief Judicial Magistrate, Bilaspur (C.G.) for its trial/disposal in accordance with law. The District & Sessions Judge, Raigarh is directed to transmit the record of the above complaint case to the District and Sessions Judge, Bilaspur.

9. Parties are directed to appear before the concerned trial Court on 22.04.2021.

Sd/-

(Rajani Dubey)
Judge

Pekde