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

+ **TR.P.(CRL.) 137/2023, CRL.M.A. 31398/2023**

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.....Petitioner

Through: **Ms. Sunita Arora (DHCLSC), Adv.**

versus

THE STATE OF NCT OF DELHI AND ANRSRespondents

Through: **Mr. Satish Kumar, APP for the State
W/SI Kumari Neeraj, PS V.K. North**

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

29.08.2024

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1. The present petition has been filed for transfer to case No.99/2020 arising out of the case FIR no.453/2020 registered under Section 376 IPC at PS Vasant Kunj North. The transfer has been sought on the ground that the petitioner may not get a fair and impartial trial from the learned trial court where the case is presently pending.
2. It is pertinent to mention here that the present petition was filed by the petitioner in person and vide order dated 17.11.2023 Delhi High Court Legal Service Committee was requested to provide counsel. However subsequently, Ms.Sunita Arora, learned counsel was appointed as *amicus curiae* by this court. Learned counsel submits that there are specific averments in the petition that her applications are not being decided and she may not get a fair and impartial trial.



3. The court has gone through the petition. The petitioner in her petition has simply stated that she is being threatened by the accused persons and the learned trial court is not attending to her applications. The transfer applications moved by the petitioner has been dismissed by the learned Principal District and Sessions Judge, Patiala House court vide order dated 31.08.2023.
4. There is no doubt in law that justice must not only be done, but it also appears to have been done. If a party has a reasonable suspicion that they will not receive justice in a particular court, they may use this as grounds to move the proceedings to another court, but their concerns must be well-founded and should not be the result of oversensitivity or mere apprehension without any foundation. As noted in its analysis, the Apex court in *R. Balakrishna Pillai v. State of Kerala*¹, inter-alia opined that a mere allegation of apprehension that justice will not be done was not sufficient. The apprehension ought to appear reasonable, genuine and justifiable to a court. Therefore, I consider that mostly the averments of the petitioner show merely the dissatisfaction. Further, the apprehensions are without any basis and ill founded. The court on such unsubstantiated averments cannot transfer the matter from one court to another as it may have demoralising effect on the learned trial courts. Hence the present petition is dismissed.
5. However learned trial court is advised to dispose of the pending applications of the petitioner in accordance with law.
6. The petitioner may also if feels threatened by the accused persons may

¹ (2000) 7 SCC 129



also approach the Witness Protection Committee for the appropriate remedy.

7. The copy of the order be sent to learned trial court.

DINESH KUMAR SHARMA, J

AUGUST 29, 2024
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