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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **TR.P.(CRL.) 111/2024 & CRL.M.A. 36532/2024**
VICTIM JPetitioner

Through: Mr. S.K. Srivastava and Ms. Garima
Singh, Advocates.

versus

GOVT OF NCT OF DELHI THROUGH & ANR.Respondents
Through: Mr. Hemant Mehla, APP for State.
Inspector Somdeep Kumar, P.S.
Bhajan Pura.
Mr. Jatin Rana, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

% **ORDER**
18.02.2025

1. The Petitioner is the prosecutrix in FIR No. 660/2021 under Section 376, 323 and 500 of the Indian Penal Code, 1860¹, registered at P.S. Bhajan Pura. Subsequently, a chargesheet against Respondent No. 2 has also been filed under Sections 376, 377, 323, 506 and 509 of the IPC as well as Section 67(A) of the Information Technology Act, 2000.
2. The proceedings emanating from the aforementioned FIR are pending before the Karkardooma Courts.
3. Although the Petitioner has levelled several allegations in the present petition, which are strongly denied by counsel for Respondent No. 2, yet an undisputed fact emerges that Respondent No. 2 is presently a practising

¹ "IPC"



advocate in Karkardooma Court.

4. It is a well-established that a party's apprehension, that they may not be able to properly defend/prosecute their case before an appropriate Court, must be based on reasonable grounds. While the right to a fair trial is a fundamental right under Article 21 of the Constitution, establishing such a reasonable apprehension is *sine qua non* for seeking transfer of a case². In this regard, while examining the request for transfer, a Court must be mindful of the fact that justice must not only be done but it should appear to be done.

5. Therefore, without going into the specific allegations made by the Petitioner, in the opinion of the Court, considering that Respondent No. 2 is an active Advocate in the Karkardooma Courts, the element of reasonable apprehension of the prosecutrix is made out. Thus, in order to rule out any element of biasness, it would be appropriate that the proceedings in FIR No. 660/2021 be adjudicated by a Court of some other district.

6. Accordingly, the present transfer petition is allowed and the proceedings in FIR No. 660/2021, stand transferred to the concerned Court of District & Sessions Judge Patiala House Courts.

7. A copy of this order be sent to the concerned courts for necessary compliance.

8. Pending applications also stand disposed of.

SANJEEV NARULA, J

FEBRUARY 18, 2025/as

² Afjal Ali Sha v. State of West Bengal & Ors., 2023 SCC OnLine SC 282