
(2008) 03 AHC CK 0149

In the Allahabad High Court

Case No : Criminal Miscellaneous Transfer Application No. 188 of 2008

Aditya Pandey

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 17-03-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 409
Penal Code, 1860 (IPC) — Section 323, 498A, 504, 506

Citation : (2008) 03 AHC CK 0149

Hon'ble Judges : Barkat Ali Zaidi, J

Final Decision : Dismissed

Judgement

Barkat Ali Zaidi, J.—A Criminal Case No. 1331 of 2007 (Rashmi Pandey v. Aditya Pandey and others), under sections 498A, 323, 504 and 506 I.P.C. is pending in the Court of Addl. Chief Judicial Magistrate, Chandauli. Out of three accused, one accused, who is the husband of Opp. Party No. 2, has come to this Court, seeking transfer of this case from District Chandauli to District Varanasi.

2. The ground on which the transfer is sought, is that the complainant is the daughter of Dr. Vipin Behari Tewari, who and his brother are well known dentist and are private practitioners at Mughalsarai, which is 20 Kms. from Chandauli and is a Tehsil of Chandauli.

3. The allegation of the applicant is that the aforesaid two dentists, are very influential persons, and are close to the District authorities including those of the judiciary, and the applicant harbors reasonable apprehensions, that he will not get justice.

4. I have heard Sri Manish Tiwary, advocate for the applicant, Sri R.V. Pandey, Advocate for the Opp. Party No. 2 and Mohd. Israil Siddiqui, Addl. Government Advocate for the State.

5. The Counsel for the Opp. Party No. 2 wife has opposed all the allegations, and has called them the statement of "imagination, of the accused. The mere fact

that the father and the uncle of the wife complainant are private practicing dentists and are influential persons, will not suffice to conclude, that they will be able to exercise undue influence, over the judicial officers.

6. We should proceed on the assumption that judicial officers will deliver unhindered justice unless there are clear indications to the contrary.

7. There are no specific allegation about the conduct and relationship between the complainant's father and uncle and the Judge conducting the trial.

8. It is also to be noticed that the case is now fixed for judgment and the application for transfer was given at a stage when the case was fixed for arguments. If the accused had real apprehensions, as alleged, they would have and should have moved an application much earlier.

9. There are some other grounds like Court not having summoned the defence evidence, for which the accused had already approached the High Court earlier, and all other grounds taken in the transfer application do not constitute any justifiable ground for transfer.

10. Transfer application dismissed.