
(1985) 10 RAJ CK 0054

In the Rajasthan High Court

Case No : Criminal Miscellaneous Transfer Application No. 908 of 1985

Babu Lal and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 08-10-1985

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 133, 407

Citation : (1985) WLN 375

Hon'ble Judges : Kanta Bhatnagar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Kanta Bhatnagar, J.—In this transfer application u/s 407 Cr. PC the petitioners have prayed that the proceedings u/s 133 Cr. PC pending before the Addl. Collector, Nagaur, in case No. 20/1985 may be transferred outside Nagaur District, either to the Additional Collector, Jodhpur, or to any S.D.M. at Jodhpur or anywhere else. The allegations against the Additional Collector, Nagaur, are that he under the influence of high Officers posted at Nagaur and being pressurised by the Executive and Judicial Officers posted there and being influenced by the wives of those Officers who are visitors of the temple, is proceeding in the case in a way not warranted by law. It has also been alleged that proper opportunity is not being given to the petitioners to prosecute their interest and as such, there is apprehension in the minds of the petitioners that they will not get justice at the hands of the Additional Collector, Nagaur.

2. Mr. K.N. Joshi referred to the order passed by the learned District Magistrate, Nagaur dated 12-8-1985 by which at the request of the petitioners, the case was transferred from the court of S.D.M., Nagaur, to the Court of Additional Collector, Nagaur and submitted that the Collector agreed with the allegations of the petitioners that high Officers were interested in the matter and they were not expecting justice from the court of S.D.M., Nagaur.

3. Mr. Joshi strenuously contended that the Officers posted at Nagaur are visitors of the temple Hanumanji-ka-Mandir and therefore, all of the them being interested in getting demolished the wall constructed by the petitioners, are pressurising the Additional Collector, to proceed in a way that the case of the petitioners may be prejudiced.

4. Mr. S.K. Mathur, learned counsel for the State of Rajasthan, Non-petitioner No. 1 and Mr. Doongar Singh learned counsel for non-petitioner No. 2, controverting the contentions raised by Mr. Joshi, submitted that there is no foundation or basis for any apprehension in the minds of the petitioners that they would not get justice at the hands of the Additional Collector, Nagaur. Mr. Doongar Singh referred to the order of the Collector, dated 12-8-1985 and contended that the allegations made in that transfer application against the SDM did not find favour with the Distt. Magistrate but the latter transferred the case in order to avoid slightest apprehension in the minds of the petitioners regarding their getting justice from that court. Mr. Doongarsingh submitted that the allegations made in the present transfer application are very vague and not only the high Officers, Executive and Judicial, posted at Nagaur, but even their wives who have nothing to do with the official matter are being involved in it. Regarding the opportunity to conduct the proceedings to the petitioners Mr. Doongar Singh referred to certain order sheets before the S.D.M. and stated that the petitioners, despite opportunities being given, did not avail of them in filing the reply. From the perusal of the transfer application it is evident that the petitioners have made vague allegations against all the Executive and Judicial Officers posted at Nagaur and have come with a case that all of them being interested in demolition of the wall constructed by the petitioners, no court, Executive or Judicial, situate at Nagaur, can give justice to the petitioners. Strange it appears that even the wives of the Officers posted at Nagaur have not been spared and it is alleged that they being visitors of the temple are also interested in getting the wall demolished. No specific allegation has been made against the Addl. Collector that he is in any way prejudiced with the petitioners or interested in non-petitioner No. 2. What has been mentioned against him is that the petitioners personally met him with a request to be reasonable in the proceedings but he stated that great pressure has been put upon him from several quarters, including highly placed Judicial Officers and he is being pressurised to finalise the proceedings against the petitioners immediately. By no stretch of imagination such an allegation can be believed

5. The learned District Magistrate has discussed in detail the allegations made in the application for transfer of the case from the court of learned S.D.M., Nagaur and has made an observation that the allegations had no foundation. Merely because the learned District Magistrate transferred the case from the court of S.D.M., in order to remove apprehension from the minds of the petitioners, even if they had any, it cannot be said that the petitioners have any basis to apprehend that they would not get justice from any Executive or Judicial Court situate at Nagaur.

6. In view of the above discussion I do not find any substance in this application and am inclined to hold that no case for transfer of the case from the court of Addl. Collector, Nagaur, is made out.

7. Mr. Joshi next argued that in case his arguments, regarding the transfer of the case do not appeal the court, the proceedings u/s 133 Cr.PC may be quashed as proper procedure has not been followed.

8. While deciding this transfer application this Court is not expected to probe into the matter whether there was any material before the S.D.M" to proceed u/s 133 Cr.PC or not. Mr. Joshi submitted that this Court should direct the Addl. Collector to follow proper procedure. Every court dealing with a matter is expected to proceed according to law and the learned Addl. Collector, cannot be an exception to that general rule. If the petitioners find that the Addl. Collector has not proceeded according to law they may choose proper forum for getting the proceedings quashed but they cannot expect an order in that regard from this Court while deciding this transfer application.

9. The transfer application having no substance is dismissed.