

(1957) 02 MP CK 0061

In the Madhya Pradesh High Court

Case No : Criminal Miscellaneous Case No. 52 of 1956

Badriprasad

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 16-02-1957

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 526
Penal Code, 1860 (IPC) — Section 325

Citation : (1957) JLJ 539

Hon'ble Judges : A.H. Khan, J

Bench : Single Bench

Advocate : K.P. Dey, for the Appellant; Mungre, Government Advocate for the State, for the Respondent

Final Decision : Allowed

Judgement

Khan, J.—This is a transfer application under Sec. 526, Cr.P.C. presented by Badriprasad son of Nathu Kori for the transfer of his case No, 141/1956 (original criminal from the Court of A.D.M. Bhind to some other court, outside District Bhind on the ground that the complainant is the son of an influential Vakil of Bhind and that in consequence he cannot obtain proper legal help. It is contended that he approached some lawyers of Bhind who were unwilling to accept the brief.

2. From the record of the case, it appears that Krishna Murarilal filed a complaint against the accused under Sec. 325, I.P.C. When the accused could not obtain legal help from the local lawyers, he applied to the Court to give him an opportunity for engaging a lawyer from outside. The Court adjourned the case, but it seems that he could not engage a lawyer from outside to defend him. Eventually he filed this application for transfer of the case.

3. I sent the application of transfer to the learned Sessions Judge, Bhind, for his remarks. He has sent me the explanations of three local lawyers of Bhind. They are M/S Ramdasji, Ramkumarji and Bateshwardayalji. On reading their

explanation, I have no doubt that for one reason or the other they were unwilling to appear on behalf of the accused. In the circumstances. It is just and proper that the case should be transferred to a place outside the District to enable the accused to defend himself properly.

4. I feel fortified in my opinion by a case *Lalta and others vs. Jahur Ahmad* 26 Cri.L.J. 1272, in which it is said that "the fact that an accused person is unable, owing to the influence of persons interested in the prosecution, to secure the services of a competent member of the local bar for his defence is a sufficient ground for the transfer of the case to some other District."

5. The Complainant appeared along with his elder brother, without a counsel and has submitted that if these Vakils cannot be engaged, there are others to whom the case can be entrusted. But these three Vakils appear to be the leading lawyers and I have no doubt that an accused is entitled to best legal advice he can get.

6. The learned Government Advocate does not oppose the transfer application.

7. For reasons slated above, allowing the transfer application, I direct that case No. 141/1956 pending in the Court of the Additional District Magistrate, Bhind, be transferred to Additional District Magistrate, Gwalior.