
(1972) 04 SC CK 0034

In the Supreme Court Of India

Case No : Transfer Petition No. 4 of 1972

Mr. A.K.K. Nambiar and Others

APPELLANT

Vs

Shri Desraj

RESPONDENT

Date of Decision : 18-04-1972

Acts Referred:

Criminal Procedure Code, 1898 (CrPC) — Section 527

Citation : AIR 1973 SC 203 : (1973) CriLJ 270 : (1973) 3 SCC 873 : (1973) SCC(Cri) 555 : (1973) 5 UJ 9

Hon'ble Judges : K. S. Hegde, J;G. K. Mitter, J;A. N. Grover, J

Bench : Full Bench

Advocate : C.K. Daphtary, for the Appellant; R.N. Sachthey, for the Respondent

Final Decision : Allowed

Judgement

Hegde, J.—This is a petition u/s 527 of the Criminal Procedure Code seeking the transfer of case No. 92/S of 1971 pending before the Additional Chief Presidency Magistrate (32nd Court) Esplanade, Bombay-1, to any of the Magistrate's Court in the city of Hyderabad.

2. Four cases have been instituted against the petitioner. Those cases are, more or less, similar in nature. Three of them are being tried at Hyderabad. This, one is pending before the Additional Chief Presidency Magistrate (32nd Court), Esplanade, Bombay-1. In this case we were told that there are as many as 63 witnesses. Out of them, 36 belong to Hyderabad. Some of the others are residents of Bombay, some of Delhi and some hail from other places. Therefore, prima facie, there are good grounds to transfer this case to Hyderabad to be tried along with the other cases. The respondent is opposing the transfer on the sole ground that there is likelihood of the petitioner tampering with the prosecution witnesses. The petitioner was Inspector General of Police in the State of Andhra Pradesh. He has now retired. Because of the position held by him, it is said that he is in a position to wield considerable influence at Hyderabad. Vague apprehensions apart, there is no material before us to show that he is likely to

tamper with witnesses. As mentioned earlier, out of the witnesses cited, 36 are residents of Hyderabad. In their case the apprehension of tampering has no relevance. It is always open to the respondent to bring to the notice of the appropriate Court if and when there are good grounds to support his apprehension.

3. Taking into consideration all the aspects of the case, we think it is expedient in the interest of justice that this case should be transferred to a Court of competent jurisdiction in Hyderabad to be tried along with the other cases. We direct the transfer of the aforementioned case to the file of the District Magistrate, Hyderabad, who may assign the case to any of the Magistrates subordinate to him and working in the city of Hyderabad and who is competent to try the case. It is also necessary that all the four cases referred to above must be tried by the same Magistrate. The stay application has become infructuous. No costs.