
(2015) 08 RAJ CK 0084

In the Rajasthan High Court

Case No : Civil Transfer Petition No. 100 of 2015

Saied Aalam

APPELLANT

Vs

Rajendra Prasad and Others

RESPONDENT

Date of Decision : 27-08-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 24
Penal Code, 1860 (IPC) — Section 181, 420

Citation : (2015) 08 RAJ CK 0084

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : R.K. Soni, for the Appellant

Final Decision : Dismissed

Judgement

Arun Bhansali, J—This petition under Section 24 CPC has been filed by the petitioner seeking transfer of Civil Appeals No. 24/2011 and No. 26/2011 pending before the Court of Additional District Judge No. 2, Chittorgarh to any competent Court at Udaipur or Jodhpur.

2. The petitioner in the petition has, inter alia, indicated that respondent No. 1 lodged a false FIR No. 790/1999 at P.S. Chittorgarh against petitioner and one Manak Lal and on 25.03.2000 filed a civil suit for specific performance of contract dated 17.12.1987 against the petitioner and subsequent purchaser Smt. Anusuya Devi, besides her husband Manak Lal; it is alleged that though in the statements recorded by the trial courts in both the criminal and civil matters, the respondent No. 1 could not withstand the cross-examination, the respondent No. 1 has been illegally favoured on account of his brother Ramesh Chandra Dashora, who is working in District Judgeship, Chittorgarh since long and was presently posted at Munsarim; it is also alleged that said Ramesh Chandra Dashora has threatened the petitioner that he would manage to send petitioner to jail unless he exceeds to execution of sale deed in favour of respondent No. 1.

3. It is further alleged that the petitioner legitimately apprehended that said Ramesh Chandra Dashora would not let justice be done to the petitioner and the said apprehension came true as the petitioner was convicted under Sections 420 and 181 IPC by judgment dated 18.05.2013, against which, appeals filed by the petitioner are pending and the civil suit has been decreed by judgment and decree dated 18.05.2010, against which, regular first appeals being Appeal No. 24/2011 and 26/2011 are pending consideration before the Additional District Judge No. 2, Chittorgarh; it is alleged that said Ramesh Chandra Dashora brother of respondent No. 1 is working in District Judgeship for last many years and has been threatening the petitioner; further allegations have been made against said Ramesh Chandra Dashora regarding forging certain documents; it is then contended that under the circumstances the petitioner has legitimate and reasonable apprehension that he would not get justice at Chittorgarh and fair and partial trial will not be possible in the pending cases at Chittorgarh and, therefore, the matters be transferred.

4. Learned counsel for the petitioner made submissions in consonance with the averments contained in the application as noticed hereinbefore, however, when a specific query was put to the counsel that there does not appear to be any iota of allegation against any of the Presiding Officers of bias, learned counsel for the petitioner fairly submitted that though he does not have any apprehension qua the Presiding Officers, he legitimately fears that on account of influence of Ramesh Chandra Dashora, he may not get justice at Chittorgarh.

5. Reliance was placed on Satish Jaggi Vs. State of Chhattisgarh and Others, (2007) CriLJ 1786 : (2007) 3 JT 508 : (2007) 3 SCALE 405 : (2007) 3 SCC 62 and Kanaklata Vs. State of (NCT) of Delhi and Others(2015) 2 AD 209 : (2015) 1 RCR(Criminal) 897 : (2015) 2 SCALE 182 : (2015) 2 SCJ 501 .

6. I have considered the submissions made by learned counsel for the petitioner and have perused the material placed on record.

7. Admittedly, the appeals, which are sought to be transferred by the petitioner, are pending consideration before the concerned Court since 2011 and, as noticed hereinbefore, the petitioner has not made any allegation whatsoever about any bias and/or influence on the Presiding Officer of the Court and, on the other hand, the submissions made are otherwise.

8. Such a practice of seeking transfer of cases on non-existent grounds cannot be encouraged as to give credence to the indirect allegations made/sought to be made by the parties so as to demoralise the Presiding Officers of the respective Courts.

9. So far as the judgments cited by learned counsel for the petitioner are concerned, the judgment in the case of Satish Jaggi (supra) was passed in view of the fact that a specific allegation regarding apprehension as to bias against the Sessions Judge was made on account of brother of Sessions Judge and father of the accused being very close to each other, as already noticed hereinbefore, the

petitioner has failed to make any allegation of bias against the Presiding Officer and, therefore, the said judgment has no application.

10. So far as judgment in the case of Kanaklata (supra) is concerned, as the transfer was sought on account of the fact that after remand the matter was sought to be heard by the same Presiding Officer, an apprehension was expressed by the petitioner before Hon"ble Supreme Court regarding legitimate apprehension about not getting justice, which submissions were accepted by Hon"ble Supreme Court. The facts of the case and the law laid down therein have no application to the present case.

11. In view thereof, no case for transfer of matters from Chittorgarh to any other Court is made out. Consequently, there is no substance in the transfer petition and the same is, therefore, dismissed.