
(2021) 05 UK CK 0085
In the Uttarakhand High Court
Case No : Transfer Application No. 2 Of 2021

Shilpi Lawrence Elenjikal

APPELLANT

Vs

State Of Uttarakhand And Another

RESPONDENT

Date of Decision : 28-05-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 407 Indian Penal Code, 1860 —
Section 354D(i)(ii), 506, 509

Citation : (2021) 05 UK CK 0085

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : P.S. Uniyal

Final Decision : Allowed

Judgement

Alok Kumar Verma, J

1. This transfer application is filed under Section 407 of the Code of Criminal Procedure, 1973 seeking transfer of Criminal Case No.1185 of 2019,

State vs. Parikshit Arvind Joshi, under Sections 354 D (i) (ii), 506 and 509 of I.P.C., pending before the court of the Additional Chief Judicial

Magistrate, Kotdwar, District Pauri Garhwal to the court of the Chief Judicial Magistrate, Udham Singh Nagar or to the court of the Chief Judicial

Magistrate, Nainital.

2. Notice is personally served on Parikshit Arvind Joshi, the respondent No.2, but, he is not present.

3. Heard Ms. Shilpi Lawrence Elenjikal, the applicant-in-person and Mr. P.S. Uniyal, the learned Brief Holder for the State, the respondent no.1,

through video conferencing.

4. Ms. Shilpi Lawrence Elenjikal, the applicant-in-person submitted that she apprehends threat to her life and will be prejudiced in conducting her case in the court of Additional Chief Judicial Magistrate, Kotdwar, District Pauri Garhwal. She submitted that the Honâ??ble Supreme Court in Special Leave Petition (Criminal) No.6146 of 2019, vide order dated 29.11.2019, had specifically directed the respondent No.2 to desist from attempting to maintain any form of contact with the applicant and the Honâ??ble Supreme Court, by order dated 23.09.2020, transferred the Sessions Trial No.21 of 2019 from the court of the Additional Sessions Judge, Haridwar to the court of the Additional Sessions Judge, Udham Singh Nagar. In these circumstances, the applicant-in-person requested to transfer the Criminal Case No.1185 of 2019, â??State vs. Parikshit Arvind Joshiâ?, from the court of the Additional Chief Judicial Magistrate, Kotdwar, District Pauri Garhwal to the court of the Chief Judicial Magistrate, Udham Singh Nagar.
5. Mr. P.S. Uniyal, the learned Brief Holder for the State submitted that the State has no objection.
6. In the matter of transfer, the general principle that justice must not only be done but must also be seen to be done, should be taken into consideration. The applicant shows that her apprehension is reasonable and it is not merely imaginary.
7. In *Sesamma Phillip vs. P. Phillip*, (1973) 1 SCC 405, the Honâ??bâ??le Supreme Court transferred a criminal case on the ground of safety of the woman petitioner. The Honâ??ble Supreme Court transferred the Sessions Trial No.21 of 2019 from the court of the Additional Sessions Judge, Haridwar to the court of the Additional Sessions Judge, Udham Singh Nagar.
8. Therefore, in view of the above facts and circumstances of the case, the transfer application No.2 of 2021 is allowed. Criminal Case No.1185 of 2019, â??State vs. Parikshit Arvind Joshiâ?, which is pending before the court of the Additional Chief Judicial Magistrate, Kotdwar, District Pauri Garhwal is transferred to the court of the Chief Judicial Magistrate, Udham Singh Nagar.
9. The record of the case shall be forthwith transferred to the transferee court, which shall take up the matter and shall dispose of the same according to law as expeditiously as possible.
10. A certified copy of this order be sent to the court of the Additional Chief

Judicial Magistrate, Kotdwar, District Pauri Garhwal and to the court of the Chief Judicial Magistrate, Udham Singh Nagar for necessary compliance.