
(2015) 08 SC CK 0156

In the Supreme Court Of India

Case No : Transfer Petition (Crl.) Nos. 175-178 of 2014, 37-39 and 22-25 of 2015

Swami Ram Dev and others

APPELLANT

Vs

Shyam Rajak and others

RESPONDENT

Date of Decision : 20-08-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 190, 406
Penal Code, 1860 (IPC) — Section 120B, 121, 124(B), 153(A), 153(B)
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3, 3(1)(10), 3(1)(11), 4

Citation : (2015) 4 RCR(Criminal) 173

Hon'ble Judges : H.L. Dattu, C.J.I., Arun Mishra and Amitava Roy, JJ.

Bench : Full Bench

Advocate : Gaurav Kejriwal, Keshav Mohan, Amrita Narayan and Amardeep Maini, Advocates, for the Appellant; Jay Savla, Prabhat K.C., Renuka Sahu, Ravi Mishra, Debasis Misra, Manoj Goreka, Nagesh Gajghate and Shashi Kiran, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

1. These Transfer Petitions are filed Under Section 406 of the Code of Criminal Procedure, 1973 read with Order XXXVI of the Supreme Court Rules for transfer of Complaints/First Information Reports pending before the Court of learned Magistrates" and various Police Stations across the country. We are informed that the first complaint was filed by one Shri Shyam Rajak, Respondent No. 1-herein, before the Chief Judicial Magistrate, Patna in Complaint Case No. 26465 of 2014.

2. The Petitioner in the transfer petitions before us requests to transfer the following cases to the Chief Judicial Magistrate, Lucknow or any other competent Court, as this Court deems fit:

"(i) transfer all complaints relating to or arising out of the complaints based on the press conference held on 25.04.2014 as also the Complaints pending before

(i) Chief Judicial Magistrate, Patna being Complaint Case No. 26465 of 2014 (Shyam Rajak v. Baba Ramdev) Under Sections 354 Indian Penal Code and 4, 3(10)(11) of the Scheduled Cases and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (ii) Chief Judicial Magistrate, Moradabad being Complaint Case No. 6240/14 (Rameshwar Dayal Tauriah v. Baba Ram Dev) Under Section 153(B), 295(A), 298, 500, 509 Indian Penal Code and SC/ST Act, P.S. Majhola, Moradabad, (iii) Chief Judicial Magistrate Agra, being Complaint Case No. Nil/14 (Ramjilal Suman "Vidhyarthi" v. Baba Ram Dev) Under Sections 153(A)(B)(C), 504, 505(1)(B), 505(C), 505(2) and 120B IPC, P.S. New Agra (iv) Additional Chief Judicial Magistrate, Agra, being Complaint Case No. M-28/14 (Rajendra Kumar Kardam v. Baba Ram Dev) Under Sections 153(A)(B)(C), 504, 505(1)(B), 505(1)(C), 505(2) and 120-B Indian Penal Code Section 3(1)(10) SC/ST Act, 1989 P.S. Nai Ki Mandi Agra be transferred either to Chief Judicial Magistrate, Lucknow or any other competent court as this Hon"ble Court may deem fit.

(i) transfer all complaints relating to or arising out of the complaints based on the press conference held on 25.04.2014 as also the Complaints pending before:

(a) Chief Judicial Magistrate, Muzaffarpur, Bihar being Complaint Case No. 1048 of 2014 (Enng. Ramswarth Sah v. Baba Ramdev) Under Sections 504, 506, 153(A), 124(B) Indian Penal Code;

(b) Chief Judicial Magistrate, Dhanbad. Jhark-hand being Complaint Case No. 931 of 2014 (Subbal Ravidas v. Baba Ram Dev) Under Section 3(1)(10) SC/ST Act.

(c) Chief Judicial Magistrate First Class, Dhanbad, Jharkhand being Complaint Case No. 928/2014 (Bablu Das v. Baba Ram Dev Under Section 3(1)(10) SC/ST Act 1989 be transferred either to Lucknow or any other competent court as this Hon"ble Court may deem fit..."

i. transfer all complaints relating to or arising out of the complaints based on the press conference held on 25.04.2014 as also the Complaints pending before:

(a) Chief Judicial Magistrate, Hazipur, Vaishali being Complaint Case No. 1226 of 2014 (Lalan Ram v. Yog Guru Baba Ramdev) Under Sections 121, 153(B), 294, 504 Indian Penal Code and 3(x)(xi)(xii) of SC/ST (P) Act dated 28.4.2014.

(b) Special Chief Judicial Magistrate, District Kanpur City being Complaint Case No. NIL/14 (Pankaj Gautam v. Baba Ram Dev) Under Section 509 Indian Penal Code and 3(1)(10), SC/ST Act, 1989 PS Kotwali, Kanpur City dated 29.4.2014.

(c) Chief Judicial Magistrate, Badmer, being Complaint Case No. NIL/14 (Bharmal Ram v. Yog Guru Swami Ramdeo) Under Section 295-A, 354 Indian Penal Code and 3(1)(10) SC/ST Act, 1989 dated 29.4.2014.

(d) Additional Chief Judicial Magistrate (SD), No. 8, Jaipur City, being Complaint Case No. NIL/14 (Ghanshyam Brijwashi v. Ramdev) Under Section 190 Code of Criminal Procedure, 3(1)(10) SC/ST (Prevention of Atrocities) Act, 1989, Section 500, 501(B), 502(B), 504, 505(B) and C, 505(2), 153-A, 171-C and 120-B

Indian Penal Code dated 30.4.2014, be transferred either to Lucknow or any other competent Court as this Hon"ble Court may deem fit;...."

3. This Court, while issuing notice to the Respondents on 09.05.2014, had passed the following interim order:

"Issue notice returnable in ten weeks.

Dasti, in addition to the ordinary process, is permitted.

Subject to Petitioner's depositing a sum of Rs. 10/- Lacs (Rupees Ten Lakhs only) within two weeks in the Registry of this Court, further proceedings in complaints reference of which has been given in prayer Clause (i) of the Transfer Petitions and complaints referred to in Annexures (A-1), (A-2), (A-3) and (A-6) of the compilation of additional documents shall remain stayed.

It is clarified that issuance of notice shall not be construed in any manner as an expression of opinion on the merits of the complaints."

4. In view of the interim order passed by this Court, the Complainant - Shyam Rajak was not present before the learned Magistrate on 03.03.2015. Since the Complainant was not present on that day, the Magistrate has dismissed the complaint. It could be for the reason that none of the parties to the complaint had brought to the notice of the Court the interim orders passed by this Court. We neither find fault with the Complainant nor with the learned Magistrate. In our view, there is every justification for the Complainant not to be present before the learned Magistrate since there was already an interim order passed by this Court. Therefore, in our view, the order passed by the learned Magistrate requires to be set aside and the Complaint Case No. 26465 of 2014 requires to be restored. Accordingly, we do so.

5. Since the Petitioner seeks for transfer of all the complaints pending before various Courts/Magistrates/Police Stations, we deem it proper to order for transfer of all the Complaint Cases/FIRs to the learned Chief Judicial Magistrate, Patna and direct him to hold the trial.

6. Since the complainants have to come from different places for their personal appearance, the learned CJM would be liberal in granting exemptions, if an application for exemption from their personal appearance is filed.

7. The Registry is now directed to transfer the amount which was deposited by the Petitioner, along with accrued interest, to the learned CJM at Patna. The learned CJM will reimburse the aforesaid amount to the complainants towards their traveling expenses whenever they appear before the Court.

8. The Complainant(s) shall appear before the learned CJM, Patna on 21.09.2015.

9. Till such time, the interim order(s) granted by this Court, will ensure to the benefit of the Petitioner. With the aforesaid observations, these transfer petitions are disposed of.

Ordered accordingly.