

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION(CRIMINAL) NOS. 76-80 OF 2020

ANISH PRAMOD PATEL

PETITIONER

VERSUS

KIRANJYOT MAINI @ KIRANJYOT ANISH
PATEL & ANR.

RESPONDENTS

O R D E R

The petitioner before me is the husband involved in a matrimonial dispute with his wife. In this set of petitions he seeks transfer of three cases registered as Criminal Case No. 4622 of 2016, Criminal Case No.151 of 2017 and Criminal Case No. 41 of 2019, all pending before the Courts of appropriate jurisdiction in Gautam Budh Nagar, State of Uttar Pradesh.

The first of these cases has been instituted under the Protection of Women from Domestic Violence Act, 2005 and is pending before the Civil Judge (Junior Division), Gautam Budh Nagar whereas the second case has been filed under Sections 498A, 323, 504 IPC read with Sections 3 and 4 of the Dowry Prohibition Act, 1961. This proceeding is pending before the Fast Track Court. The third case is under Section 31(1) of the Protection of Women from Domestic Violence Act, 2005 and Section 498A of the Indian Penal Code pending before the Additional Civil Judge (Senior Division-III)/ACJM, Gautam Budh Nagar.

There are also two applications under Section 482 pending before the High Court of Judicature at Allahabad but learned counsel appearing for the petitioner herein has not pressed for

transfer of those two cases at the time of hearing. Thus, the plea for transfer of the said two cases registered as Transfer Petition (Crl.) Nos. 79-80 of 2020 shall stand dismissed.

In course of hearing, it transpires that a petition for divorce was instituted by the petitioner-husband before the Family Court, Bandra, Maharashtra and that divorce petition has been transferred by this Court to the Family Court, Tis Hazari, Delhi by an order dated 21.01.2020 in TP(C) No. 724 of 2019. The main ground on which Ms. Meenakshi Arora, learned Senior Counsel has pressed for transfer of these cases is that the divorce proceeding is also pending in the same Court. It is also urged that the respondent has politically influential relatives but no material demonstrating exertion of any form of influence has been produced.

Mr. Gaurav Bhatia, learned Senior Counsel appearing for the respondent-wife resists the plea for transfer of these cases. His submission is that his client is residing with a minor daughter with her parents at NOIDA, Uttar Pradesh and it would be difficult for her to conduct these cases in Tis Hazari Court, Delhi. It is also his submission that the trial in the said proceedings are at an advance stage and in the event transfer as prayed for is effected, that would result in delay in conclusion of the trials.

I have considered submissions of the learned counsel for the parties. I choose to direct transfer of the aforesaid three proceedings from the respective Courts at Gautam Budh Nagar, Uttar Pradesh to the Tis Hazari Court, Delhi. Such transfer, in

my opinion would serve the ends of justice mainly for two reasons.

First is that the Suit for divorce already stands transferred to the said Court.

Secondly, distance between the Courts at Gautam Budh Nagar and Tis Hazari Court is negligible and no major inconvenience would be caused to the respondent-wife in commuting from NOIDA to Tis Hazari for the purpose of prosecuting the said cases. I also direct that the Courts to which the aforesaid cases are allocated at the Tis Hazari Court by the District and Sessions Judge, Head Quarters shall proceed with the matters from the stages the proceedings have reached at present in the Courts where these cases are pending.

The District and Sessions Judge, Head Quarters shall allocate the three cases to the Courts of jurisdiction within the said judgeship and effort shall be made to hear out the cases on day to day basis, as far as practicable and if possible, simultaneous hearing of these cases shall be undertaken. The concerned Courts shall make an attempt for early conclusion of the trial of these cases.

There is dispute as regards payment of maintenance and the respondent-wife's complaint is that there are sums due on that account. It has been asserted on behalf of the respondent-wife that without paying the entire sum, the petitioner ought not to be permitted to approach this Court for transfer of a case, which is a discretionary relief. While hearing Transfer Petition, however, I would be lacking in my jurisdiction to direct release of the sum, if any, is due to the respondent-wife. It shall be

open to the respondent to apply before the appropriate Court for relief on this count.

The three petitions stand allowed by this common order in the above terms.

There shall be no order as to costs.

NEW DELHI
AUGUST 13, 2021

.....J.
[ANIRUDDHA BOSE]

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Petition(s)(Criminal) No(s). 76-80/2020

ANISH PRAMOD PATEL

Petitioner(s)

VERSUS

KIRANJYOT MAINI @ KIRANJYOT ANISH PATEL & ANR.

Respondent(s)

(Mediation Report has been received.

IA No. 22106/2020 - EX-PARTE STAY

IA No. 15056/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 134192/2020 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 13-08-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Ms. Meenakshi Arora, Sr. Adv.
Mr. Sameer Kumar, AOR
Mr. Shah Rukh Ahmad, Adv.
Mr. Mandeep Baisala, Adv.

For Respondent(s) Mr. Gaurav Bhatia, Sr. Adv.
Mr. Gaurav Srivastava, AOR

Mr. Sarvesh Singh Baghel, AOR
Mr. Aditya Kumar Dubey, Adv.

UPON hearing the counsel the Court made the following
O R D E R

TP(Criminal) No. 76-78 of 2020

The transfer petitions are allowed in terms of the Signed
Order.

TP(Criminal) No. 79-80 of 2020

The transfer petitions are dismissed in terms of the
Signed Order.

(SONIA BHASIN)
COURT MASTER (SH)

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR

[Signed Order is placed on the file]