

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

TRANSFER APPLICATION NO.8 of 2020

28TH MAY, 2021

Between:

Shilpi Lawrence Elenjikal ...Applicant

and

State of Uttarakhand and another ...Respondents

Hon'ble Alok Kumar Verma,J.

The present transfer application is filed under Section 407 of the Code of Criminal Procedure, 1973 seeking transfer of Criminal Case No.1317 of 2020, "State vs. Parikshit Arvind Joshi", under Sections 354 & 355 of I.P.C., pending before the court of the learned Chief Judicial Magistrate, Haridwar to the court of the learned Chief Judicial Magistrate, Udham Singh Nagar or to the court of the learned 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 an information was given by her on 12.12.2019 to the Police Station SIDCUL, alleging therein that while she was present inside the court of 1st

Additional District & Sessions Judge, Haridwar in connection with Sessions Trial No.21 of 2019, the respondent No.2 assaulted her by pulling her hand during which she sustained injury as well. Accordingly, an FIR was registered on 18.12.2019 at Police Station SIDCUL, District Haridwar against the respondent No.2. After completion of the investigation, charge-sheet is submitted before the court of the Chief Judicial Magistrate, Haridwar. The applicant in-person further submitted that she apprehends threat to her life and will be prejudiced in conducting her case in the court of the Chief Judicial Magistrate, Haridwar. She submitted that the Hon'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 Hon'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.1317 of 2020 from the court of the Chief Judicial Magistrate, Haridwar 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 Hon'ble Supreme Court transferred a criminal case on the ground of safety of the woman petitioner. The Hon'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.8 of 2020 is allowed. Criminal Case No.1317 of 2020, "State vs. Parikshit Arvind Joshi", which is pending before the court of the Chief Judicial Magistrate, Haridwar 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 Chief Judicial Magistrate, Haridwar and to the court of the Chief Judicial Magistrate, Udham Singh Nagar for necessary compliance.

ALOK KUMAR VERMA, J.

Dt: 28th May, 2021
JKJ/Pant