

Dr. Ram Chander Singh Sagar and Another

Vs

State of Tamil Nadu and Another

Transfer Petition (Cri) No. 40 of 1977

(V. R. Krishna Iyer, Jaswant Singh JJ)

23.01.1978

ORDER

KRISHNA IYER, J. -

1. The Code of Criminal Procedure clothes this Court with power under Section 406 to transfer a case or appeal from one High Court or to a Court subordinate thereto. But it does not clothe this Court with the power to transfer investigations from one police station to another in the country simply because the first information or a remand report is forwarded to a Court. The application before us stems from a misconception about the scope of Section 406. There is as yet no case pending before any Court as has been made clear in the counter affidavit of the State of Tamil Nadu. In the light of this counter affidavit, nothing can be done except to dismiss this petition.

2. If the petitioners are being directed to appear in a far-off court during investigatory stage it is for them to move that court for appropriate orders so that they may not be tormented by long travel or otherwise teased by judicial process. If justice is denied there are other redresses, not under Section 406, though it is unfortunate that the petitioners have not chosen to move that court to be absolved from appearance until necessitated by the circumstances or the progress of the investigation. To come to this Court directly seeking an order of transfer is travelling along the wrong street. We are sure that if the second petitioner is ailing, as is represented, and this fact is brought to the notice of the Court which has directed her appearance, just orders will be passed in case there is veracity behind the representation. We need hardly say courts should use their processes to the purpose of advancing justice, not to harass parties. Anyway, so far as the petition for transfer is concerned there is no merit we can see and so we dismiss it.

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