

Central Bureau of Investigation and Another

Vs

Harinder Singh Chaudhary and Another

Transfer Petition (Crl.) Nos. 153-154 of 1990

(S.R. Pandian, Smt. M.S. Fathima Beevi JJ)

29.11.1990

ORDER

1. The matters are heard at length. Respondent 2 though served with notice is not appearing before us.
2. The learned Additional Solicitor General after taking us through the records contended that this is a fit case wherein this Court by exercising its jurisdiction under Article 139-A of the Constitution may be pleased to transfer Cri. M. (Main) No. 1821 of 1990 pending before the Delhi High Court and the Special Criminal Petition No. 1578 of 1990 filed by respondent 2 which is pending in the Gujarat High Court to the file of this Court as, according to him, same substantial questions of general importance are involved in both the cases.
3. Mr Shanti Bhushan, the learned senior counsel appearing on behalf of the intervener in Criminal Miscellaneous Petition Nos. 8933-34 of 1990 supplemented the submission of the learned Additional Solicitor General by restating that in both the cases, the same substantial questions of law which are of general importance arise, especially the question whether public interest litigants have got locus standi to move the High Courts for quashing the criminal proceedings pending investigation as well as trial and, therefore, in the interest of justice, the cases should be transferred to this highest court so that the questions may be finally settled once for all. Alternatively, he submitted that in case this Court is not inclined to transfer the cases as prayed for, the special petition now pending before the Gujarat High Court may be transferred to Delhi High Court or vice versa so that there may not be any conflict of decisions between the two High Courts.
4. Mr Bhagat, the learned senior counsel appearing on behalf of respondent 1 strenuously opposes the above prayer. He submits that since the FIR in respect of which the special criminal petition is filed at Gujarat High Court has been registered as Report No. RC 1(A)90/ACU-IV at Delhi and as the matter is pending before the Special Court at Delhi, respondent 2, Dharendra B. Tripathi, has no locus standi to file this petition at Gujarat High Court which has no territorial jurisdiction either over the said Special Court or to deal with the FIR and, therefore, it must be held that in the eye of law no petition is pending before the Gujarat High Court for ordering a transfer. He further states that the matter has been argued for nearly 20 days before the Delhi High Court and in fact the petitioners also took part and advanced their arguments for two days.
5. The learned Additional Solicitor General by way of reply submitted that the argument by Mr Bhagat that no petition in the eye of law is pending before the Gujarat High Court cannot be countenanced since as a matter of fact, there is a petition pending before the said court. He finally concludes his arguments stating that this Court be pleased, in case it is not inclined to transfer this

petition, to direct the High Court to examine the preliminary questions of locus standi of respondent 1 as well as the maintainability of the petition. He further states that as submitted by Mr Shanti Bhushan, the petition pending before the Gujarat High Court may be transferred to Delhi High Court or vice versa so as to avoid any conflict or decisions between the two High Courts.

6. After carefully considering the submissions of all the learned counsel and examining the entire records placed before us, we are not satisfied that the prayers of the petitioners seeking transfer of both the cases one pending at Delhi High Court and another at Gujarat High Court to this Court can be acceded to. Further, in our view, this is not a fit case for directing transfer of the said two cases to the file of this Court under Article 139-A of the Constitution. Hence, the transfer petitions are dismissed. All interim orders are vacated.

7. So far as the applications for intervention are concerned, the Delhi High Court before which a similar petition has been filed by the interveners has passed the following order :

"After hearing arguments of the respondent, if any need arises, I will call upon the intervener. For the present, his application is only allowed to be taken on board."

8. In view of the fact that we have dismissed the transfer petitions, the petitions for intervention also stand dismissed.

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