

SUPREME COURT OF INDIA

Neelam Kanwar

Vs.

Devinder Singh Kanwar

(2000) 10 SCC 589

(K.Thomas and R Sethi, JJ.)

25.07.2000

ORDER

K.Thomas,J.

1. Learned Counsel for the respondent submits that the averments in paragraph 6 of the preliminary objections may be treated as deleted.

2. We heard the Counsel for all parties at length. The transfer prayed for is in respect of Criminal Complaint No. 68 of 1994 pending before the Court of Chief Judicial Magistrate, First Class, U.T. Chandigarh. That complaint was filed under Section 500 of the I.P.C. by the first respondent's father (who is admittedly no more now). The first respondent submits that he wants to pursue the complaint. An argument has been addressed that first respondent has no right to pursue the complaint. We do not express any opinion on that aspect now since that can be raised before the Court where the case would be pending.

3. The petitioner is the wife of the first respondent. Second respondent is the father of the petitioner and third respondent is the sister of the petitioner. In the complaint, second and third respondents were also arraigned as accused. According to the petitioner, she is residing in Mumbai and therefore, it is greatly inconvenient for her to go all the way to Chandigarh for defending this action against her. Hence, it is prayed that the case may be transferred to the Court of Chief Judicial Magistrate, Mumbai.

4. The petition is opposed by first respondent mainly on the ground that if transfer is allowed, he will have to travel all the way from Chandigarh to Mumbai. This submission is made irrespective of a description made in the petition that first respondent has a permanent residence at Mumbai. Even assuming that first respondent is not residing in the aforesaid place shown as his permanent residence but at Chandigarh, we are mindful of the fact that the petitioner is a lady and first respondent is a male and therefore, convenience wise, a transfer

to the place where the lady is residing would be preferred by this Court unless it is shown that there are special reasons not to do so. No such special reason is shown.

5. We, therefore, order that Criminal Complaint No. 68 of 1994 on the file of Chief Judicial Magistrate, 1st Class, U.T. Chandigarh, be transferred to the file of Chief Judicial Magistrate, Mumbai.

6. T.P. is disposed of.