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Mustafa and ors. Vs. State of U.P.

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Court : Allahabad

Decided On : Sep-16-1983

Reported in : 1984CriLJ342

Judge : P.N. Bakshi, J.

Appellant : Mustafa and ors.

Respondent : State of U.P.

Judgement :
ORDER

P.N. Bakshi, J.

1. This is a transfer application. In Sessions Trial No. 72 of 1983, charges were framed by Sri R. P. Yadav VI Addl. Sessions Judge, Gorakhpur. He examined all the eye-witnesses except one. Therafter due to change in the designation the case came on to the file of Sri Intiaz Uddin. He examined one eyewitness and a few formal witnesses. Thereafter evidence was closed and arguments were heard and a date was fixed for judgment which was adjourned to 11-8-1983. It was at this stage that the instant transfer application was filed before this Court and stay order was obtained on 9th August, 1983.

2. I have heard learned Counsel for the parties and have also perused the affidavits, and the materials on record. In view of the Division Bench decision of

our court, there can be no doubt that Sri R. P. Yadav who framed the charges and recorded evidence at the initial stage, is a court competent to conclude the trial. A mere change in the designation would not divest him of jurisdiction which he originally possessed.

3. Counsel for the opposite party has argued that there has been delay in the filing of this transfer application because the applicant had come to court when judgment had been reserved. That circumstance alone by itself would not be enough to reject this transfer application. I am aware of the fact that very recently I have decided a Transfer Application No. 8105 of 1983, Babu Lal Singh v. State on 12-9-83, in which the circumstance of delay in filing the transfer application was taken into consideration by me, but in that case there were several other circumstances which also influenced me to reject the transfer application. The cumulative effect of all those circumstances resulted in the rejection of the transfer application. In my opinion mere delay in filing the transfer application is not a sufficient circumstance by itself for rejecting this application.

4. As I have mentioned above, in view of the Division Bench decision in Panjab Singh's case, I hereby order that Sessions trial No. 72 of 1983, State v. Mustafa and others pending in the court of Sri Intiaz Uddin, VI Addl. Sessions Judge, Gorakhpur, shall be transferred to the Court of Sri R. P. Yadav Vth Addl. Sessions Judge, Gorakhpur, who will proceed to decide this case in accordance with law. A copy of the order shall be given to the counsel for the applicant on payment of usual charges within 3 days.

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