

**Abdul Samad and ors. Vs. the State**

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**SooperKanoon Citation :** [sooperkanoon.com/754062](http://sooperkanoon.com/754062)

**Court :** Rajasthan

**Decided On :** Jul-05-1950

**Reported in :** AIR1951Raj121

**Judge :** Bapna, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1898](#) - Sections 528, 528(2) and 528(5)

**Appeal No. :** Criminal Transfer case No. 35 of 1950

**Appellant :** Abdul Samad and ors.

**Respondent :** The State

**Advocate for Def. :** Mansharam, Govt. Adv.

**Advocate for Pet/Ap. :** Inder Nath, Adv.

**Judgement :**

ORDER

**Bapna, J.**

1. This is an appln for transfer of a criminal case. The six petnrs were charged with certain offences under Section 6, Essential Supplies Act & Section 420, Penal Code. The incident relates to certain occurrence which took place at Kuchaman

City. The chalan was put up before the Ct of the Sub-Divisional Mag, Parbatsar on 23-4-1950. This Ct had jurisdiction both as regards the nature of the offence & the place of occurrence. The Dist Mag Nagaur passed an order on 13-5-1950 for the Transfer of the case from the Ct of the Sub-Divisional Mag, Parbatsar to the Ct of the Extra Mag Nagaur which has given rise to this petn. The order of the learned Dist Mag is a short one & is in the following words:

'The above noted case is hereby transferred to the Extra Mag Nagaur from the Ct of the Sub-Divisional Mag, Parbatsar with immediate effect.'

2. The Dist Mag purports to have passed this order under Section 528 (2), Cr. P. C. He had no doubt power to transfer this case but the exercise of that power was limited by the provisions of Sub-section 5 namely, that the Mag in making the order should record in writing his reasons for making the same. The learned Dist Mag does not seem to have recorded any reasons since they are not found in the order & the learned Govt Advocate is not able to say whether there is any separate record of the same anywhere. The order of the learned Dist Mag is obviously incorrect & not in conformity with law. It may be pointed out that there are 30 witnesses most of whom are residents of Kuchaman & Parbatsar is only about 20 miles from the said place. In the absence of any grounds disclosed in the order of the Dist Mag, the order of transfer of the case to the Ct of the extra Mag; Nagaur as stated above, is improper. The order of the Dist Mag of 13-5-1950 is therefore set aside & the case is re-transferred to the Sub Divisional Mag, Parbatsar for proceeding according to law.

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