

CASE NO.:
Transfer Petition (crl.) 239 of 2004

PETITIONER:
Mrs. Urvashi Govind Advani

RESPONDENT:
State of Karnataka & Anr.

DATE OF JUDGMENT: 12/10/2004

BENCH:
ASHOK BHAN & S.H. KAPADIA

JUDGMENT:
J U D G M E N T

O R D E R

The petitioner who is a widow and is 80 years of age has filed this petition for transfer of CC No. 11090/2003 (PCR No. 131 of 2002) titled Suresh Kumar Sharma v. Smt. Govind Advani & Anr. under Section 420 r/w Section 34 of IPC pending on the files of IXth Addl. Chief Metropolitan Magistrate, Bangalore to a court of competent jurisdiction at Mumbai.

Respondent-complainant filed the above said complaint of which notice was taken by the Trial Court alleging therein that the petitioner had entered into an agreement to sell shop No 4, Ground Floor, Swastik Chambers Cooperative Housing Society Ltd. for a sum of Rs. 55 lacs out of which Rs. 15 lacs was paid as advance [Rs. 5 lacs through a Demand Draft and Rs. 10 lacs in cash]. It was further alleged that the petitioner with fraudulent and dishonest intention to cheat the complainant tried to wriggle out of the agreement. According to him, the agreement was entered into at Bangalore. The payments were made at Bangalore and all the witnesses are residing at Bangalore.

In the Transfer Petition, the petitioner has controverted the allegations made by the respondent and has prayed for transfer of the case to Bombay keeping in view the fact that she is a widow aged 80 years and suffering from Cancer and it would not be possible for her to effectively defend herself in the complaint filed by the respondent at Bangalore. It would be difficult for her to travel to and fro to Bangalore from Bombay because of her age and the disease from which she is suffering.

Counsel for the parties have been heard at length.

Keeping in view the age of the petitioner and the fact that she is suffering from Cancer, we deem it appropriate to transfer CC No. 11090/2003 (PCR No. 131 of 2002) from the Court of IXth Addl. Chief Metropolitan Magistrate, Bangalore to the Court of Principal District and Sessions Judge at Bombay who may thereafter assign the case to a court of competent jurisdiction to try the complaint.

We have refrained from making any comment on merits lest it may prejudice either of the parties in the fair trial of the case.

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