

Court No. - 27

Case :- U/S 407 CR.P.C. No. - 40 of 2021

Applicant :- Himanshu Singh

Opposite Party :- State Of U.P. & Another

Counsel for Applicant :- Ajey Singh

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the petitioner and learned A.G.A. for the State.

Notice to respondent no. 2 is dispensed with.

This petition has been filed for quashing the impugned order dated 22.09.2021 passed by the court of learned District Magistrate, Bahraich in case No. 1120/2021, "Himanshu Singh Vs. Pushpa Singh" under Section 411 Cr.P.C., Police Station Visheshwarganj, District Bahraich wherein a prayer was made to transfer the case No. 000175/2020, "Himanshu Singh Vs. Pushpa Singh", under Section 145 Cr.P.C. in any other court of Sub-Divisional Magistrate of District Bahraich in the interest of justice.

Learned counsel for the petitioner submits that transfer application under Section 411 Cr.P.C. was filed on the ground that the husband of opposite party no. 2 namely Udai Pratap Singh is a local BJP leader and has contested election of member of Jila Panchayat from ward no. 46 of Visheshwarganj, District Bahraich and he meets the Sub-Divisional Magistrate in his chamber and due to this reason the petitioner has a suspicion that he may not get justice from the hands of the aforesaid Sub-Divisional Magistrate before whom the proceedings under Section 145 Cr.P.C. are pending.

Apart from this there is no other ground take in this petition for transferring or withdrawal of the pending proceedings under Section 145 Cr.P.C. from the concerned court.

Learned A.G.A. on the other hand has opposed the prayer of learned counsel for the petitioner submitting that apart from this bald assertion nothing has been pleaded by the petitioner, nor in support whereof any material has been filed either before this Court or before the District Magistrate Bahraich who has passed the impugned order. There is no illegality in the order.

On due consideration to the arguments advanced by learned counsel for the parties as well as perusal of the record, it appears that simply because the husband of respondent no. 2 is

member of BJP from a particular ward and the petitioner is under apprehension that he may not get justice, however, he has not filed any material in support of this case to show as to why he will not get justice. So far as the contention of the petitioner that the husband of respondent no. 2 meets the Sub-Divisional Magistrate is concerned, the same is also misconceived. First of all it is not supported with any material to substantiate these pleadings, even otherwise if it is taken to be true the Executive Officers such as Sub-Divisional Magistrate also do various administrative functions wherein they are supposed to meet the general public in day to day basis for discharging his duties and regular Tehsil Divas are hosted in every Tehsil at least once in a week where the general member of public come and meet him. This ground alone cannot be a ground for transferring or withdrawing the case from a particular court.

The impugned order does not suffer from any illegality as while passing the impugned order the District Magistrate Bahraich has recorded the reasons as to why the prayer of the petitioner has been rejected. I am satisfied with the reasoning recorded by the District Magistrate. The petition lacks merit and is accordingly dismissed.

The prayer made by the petitioner is refused, however, in the interest of justice, it is provided that the pending proceedings under Section 145 Cr.P.C. shall be expedited at an early date.

Order Date :- 5.10.2021

R.C.