

Anupam Ghosh vs Faiz Mohammed on 2 September, 2022

Bench: M.R. Shah, Krishna Murari

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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (C) NOS. 2331-2334 OF 2021

ANUPAM GHOSH AND ANR.

Petit

VERSUS

FAIZ MOHAMMED AND ORS.

Respo

O R D E R

We have heard Shri Sidharth Luthra, learned Senior Advocate, appearing on behalf of the Petitioners and Shri Dushyant Dave, learned Senior Advocate, appearing on behalf of the contesting respondents.

The present Transfer Petitions have been filed under Section 25 of the Code of Civil Procedure, 1908 seeking transfer of (i) Execution Petition No. 34 of 2021 titled as “M/s Anondita Healthcare & Anr. vs. Faiz Mohammed & Ors.”, (ii) Civil Application No. 15 of 2021 titled as “Swear Health Care Private Limited & Anr. vs. M/s Anondita Healthcare & Ors.”, (iii) Civil Application No. 16 of 2021 titled as “Swear Health Care Private Limited & Anr. vs. M/s Anondita Healthcare & Ors.” and (iv) Application No. 18 of 2021 titled as “M/s Anondita Healthcare & Anr. vs. Swear Health Care Private Limited & Ors.”, all pending before the learned District and Session Judge, Dhaulpur (Rajasthan) to the Court of learned District and Sessions Judge, Noida.

One of the grounds on which the proceedings are sought to be transferred is that the petitioners believe that they are not getting a fair trial and the respondents being local bigwigs are able to influence the local Court. We deprecate such a stand and the ground on which the proceedings are sought to be transferred. Merely because some Orders are passed on judicial side (in the present case in the execution proceedings) which may be against the petitioners, it cannot be said that the Court, which passed the order was influenced. If the petitioners are aggrieved by any judicial order, the proper remedy would be to challenge the same before higher forum. But merely because some Orders adverse to them are passed by the Court, it cannot be said that the Orders on judicial side are passed under influence. Nowadays, there is a tendency to make such allegations against the judicial Officers whenever the orders are passed against a litigant and the orders are not liked by the concerned litigant. We deprecate such a practice. If such a practice is continued, it will ultimately

demoralize the judicial officer. In fact, such an allegation can be said to be obstructing the administration of justice. The another ground that, when the warrant issued by the learned Executing Court was sought to be executed, a false criminal FIR was filed and therefore, there is an apprehension on the life of the petitioners are concerned and the submission that the FIR is bogus is concerned, at the outset, it is required to be noted that if the petitioners are aggrieved by the FIR, the remedy would have been to approach the quashing of the same. It is reported that the closure report (which is disputed by Mr. Dushyant Dave, learned Senior Advocate, appearing for the respondents) is filed so far as the FIR is concerned. The aforesaid cannot be a ground to transfer the proceedings. No ground is made out to transfer any of the proceedings as sought to be transferred.

The Transfer Petitions stand dismissed, accordingly.

..... J.

(M.R. SHAH) J.

(KRISHNA MURARI) New Delhi;

September 02, 2022.

ITEM NO.3	COURT NO.8	SECTION XVI-A
	S U P R E M E C O U R T O F	I N D I A
	RECORD OF PROCEEDINGS	
Transfer Petition(s) (Civil)	No(s).	2331-2334/2021
ANUPAM GHOSH & ANR.		Petitioner(s)
	VERSUS	
FAIZ MOHAMMED & ORS.		Respondent(s)

IA No. 159530/2021 - EXEMPTION FROM FILING O.T., IA No. 159529/2021 - STAY APPLICATION & IA No. 28442/2022 - VACATING STAY Date : 02-09-2022 These matters were called on for hearing today. CORAM : HON'BLE MR. JUSTICE M.R. SHAH HON'BLE MR. JUSTICE KRISHNA MURARI For Petitioner(s) Mr. Sidharth Luthra, Sr. Adv.

Mr. Himanshu Mehra, Adv.

Mr. Bharat Garg, Adv.

Ms. Divya Kashyap, Adv.

Sheezan Hashmi, Adv.

Mr. Akshat Kumar, Adv.

Mr. Ruchir Mishra, Adv.

Mr. Sanjeev Saxena, Adv.

Mr. Partha Sil, AOR Mr. Mukesh Kr. Tiwari, Adv.

Mr. Tavish B. Prasad, Adv.

Mr. Ramneek Mishra, Adv.

For Respondent(s) Mr. Dushyant Dave, Sr. Adv.

Mr. Arvind Varma, Sr. Adv.

Mr. Sharan Thakur, Adv.

Mr. Rahul Singh, Adv.

Mr. Siddharth Thakur, Adv.

Mr. Shantanu Singh, Adv.

Mr. Nishant Shoken, Adv.

Ms. Deepshikha Bhati, Adv.

Mr. Rohit K. Singh, AOR Mr. Bishwendra Singh, Adv.

Mr. Mustafa Sajad, Adv.

Ms. Sumita Singh, Adv.

Mr. Ravi Sehgal, Adv.

UPON hearing the counsel the Court made the following O R D E R The Transfer Petitions stand dismissed in terms of the signed order.

Pending applications, if any, stand disposed of.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR

(Signed order is placed on the file)