

Chander Sharma @ Kaku And Anr vs State Of Himachal Pradesh & Anr on 25 April, 2017

Equivalent citations: AIR 2017 SUPREME COURT 2118, 2018 (12) SCC 303, AIR 2017 SC (CRIMINAL) 778, 2017 (4) AJR 839, 2017 CRILR(SC MAH GUJ) 476, (2017) 2 CRILR(RAJ) 476, (2017) 100 ALLCRIC 616, (2017) 3 CRIMES 391, 2017 CRILR(SC&MP) 476, (2017) 2 UC 1183, (2017) 67 OCR 383, (2017) 2 RECCRIR 770, (2017) 5 SCALE 304, 2017 ALLMR(CRI) 2218, (2017) 175 ALLINDCAS 272 (SC), (2017) 4 ALLCRILR 857, 2019 (1) SCC (CRI) 880, 2017 (4) KCCR SN 452 (SC)

Author: S.Abdul Nazeer

Bench: S. Abdul Nazeer, J. Chelameswar

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CRL.) NO. 67 OF 2017

CHANDER SHARMA @ KAKU AND ANR. ...PETITIONERS

VERSUS

STATE OF HIMACHAL PRADESH & ANR. ...RESPONDENTS

O R D E R

S.ABDUL NAZEER, J.

In this transfer petition filed under Section 406 of the Code of Criminal Procedure, the petitioners have sought for transfer of criminal proceedings in case No.33-8/7 of 2016 arising out of FIR No.77 dated 16th June, 2014 P.S. Sadar Shimla, District Shimla, Himachal Pradesh, from the Court of Additional Session Judge, Shimla, Himachal Pradesh to any other Court of competent jurisdiction outside the State of Himachal Pradesh. Learned counsel for the petitioners submits that there is an immense threat to the life and security of the petitioners in Shimla. The Lawyers Associations of the entire State of Himachal Pradesh have decided not to take up petitioners' case. They have also decided not to permit an outside counsel to defend the petitioners in the case and that there is a general agitation in the State of Himachal Pradesh against the petitioners. Moreover, proceedings sought to be transferred are under local media trial. Therefore, in all likelihood petitioners will not be able to get free and fair trial in the State of Himachal Pradesh.

3 The respondents have filed their counter affidavit opposing the transfer petition. Learned senior counsel appearing for the respondent State submits that the court has appointed learned advocates who have more than ten years standing in the Bar for the accused at the expense of the State. Charges have already been framed in the case and the accused persons pleaded not guilty and claimed trial. Out of 114 prosecution witnesses, 33 of them have already been examined and that the trial has been fixed on day to day basis for recording prosecution evidence. On 20th February, 2015, Shri Sanjeev Kumar, learned advocate has filed vakalatnama for accused Vikrant Bakshi. The accused persons are being defended by the legal aid counsel, as well as learned advocate appointed by the accused-Vikrant Bakshi.

4 Learned counsel for the petitioners has not denied the aforesaid submission of the learned counsel for the respondent-State. 5 In the circumstances, we do not find any justification for transfer of this case. The transfer petition is dismissed accordingly.

.....J. (J. CHELAMESWAR)J. (S. ABDUL NAZEER)
New Delhi;

April 25, 2017.