

ITEM NO.1613

COURT NO.5

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s)(Criminal) No(s). 757/2023

GREESHMA ALIAS SREEKUTTY & ORS.

Petitioner(s)

VERSUS

STATE OF KERALA

Respondent(s)

(FOR ADMISSION and IA No.207630/2023-STAY APPLICATION and IA No.207631/2023-EXEMPTION FROM FILING O.T.)

Date : 13-10-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA

For Petitioner(s) Mr. Sriram Parakkat, Adv.
Mr. Satheesh Mohanan, Adv.
Mr. Noopur Dubey, Adv.
Mr. Micheal Rao, Adv.
Ms. Shivali Chaudhary, Adv.
Mr. Ms Vishnu Shankar, Adv.
Mr. Sriram P., AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. By presenting this petition under Section 406 of the Code of the Criminal Procedure, 1973, the petitioner seeks transfer of Sessions Case No. 764 of 2023 titled as "Greeshma & 2 Others vs. State of Kerala." under Section 364, 328, 302, 201, 203 & 34 of IPC, on the ground that the offence giving rise to aforesaid Sessions case if at all was committed in the State of Tamil Nadu.
2. It appears that the petitioner had the occasion to raise the point of jurisdiction before the Sessions Court; however the challenge was spurned. Thereafter the petitioner had the occasion to move the High Court of Kerala at Ernakulam by filing a Criminal Miscellaneous Petition bearing CRL. MC No. 6811 of 2023. The order dated 26.09.2023 passed on such application reads as

follows:

“The above Crl.M.C is filed challenging Annexures 2 and 3 orders by which the petitioners raised the question of jurisdiction of the trial court to proceed with the case. Now both sides submitted that, that question may be left open and the petitioners may be allowed to raise the same during trial. If that be so, this Crl.M.C itself can be closed allowing the petitioner to raise the question of jurisdiction at the time of trial.

Therefore, granting liberty to the petitioners to raise the question of jurisdiction during trial, this Crl.M.C is closed.”

3. It is clear on the perusal of the aforesaid order that the petitioner give up the challenge before the High Court and sought for permission to raise the same question of jurisdiction in the course of trial which was granted by the High Court. Having failed to obtain orders from the High Court and having abandoned the point of jurisdiction it would be inappropriate to entertain the same question on a transfer petition. Since the High Court has left the question of jurisdiction open to be raised by the petitioner before the Sessions Court, there is no question of petitioner being prejudiced. Transfer, as prayed, would not be expedient in the interest of justice, therefore, this petition stands dismissed.

(KAPIL TANDON)
COURT MASTER (SH)

(AMITA PANDEY)
COURT MASTER (NSH)