A

RAM CHANDER SINGH SAGAR AND ANR.

v.

STATE OF TAMIL NADU AND ANR.

January 23, 1978

B

[V. R. KRISHNA IYER AND JASWANT SINGH, JJ.]

Power of Supreme Court to transfer criminal cases—Scope of S. 406 *of Criminal Procedure Code (Act II of* 1974), 1973 (1898 *Code S.* 527) *r/w Order XXXVI S. C. Rules* 1966.

The Petitioners moved this Court u/s 406 Crl. P. C., 1973 r/w Order XXXVI Supreme Court Rules, 1966, when their matter was at the investigation stage itself for an order of transfer of the case to some other court.

C

Dismissing the petition for transfer, the Court

HELD : *The Code of Criminal Procedure clothes the Supreme Court with* power u/s 406 to transfer a case for appeal from one High Court or a Court subordinate to one High Court to another High Court or to a Court subordinate thereto, but not with the power to transfer investigations from one police station to another in the country simply because the first information or a remand report is forwarded to a Court. To come to this Court directly seeking an order of transfer in such a case is travelling along the wrong street. If justice is denied, there are other redresses, not u/s 406. [604 F-G 605 A]

D

ORIGINAL JURISDICTION : Transfer Petition (Criminal) No. 40 of 1977.

Under Section 406 of the Code of Criminal Procedure.

E

D. P. Bhandare and *N. S. Das* Bahl for the Petitioners.

V. P. Rama, Adv. Genl. Tamil Nadu and *A. V. Rangam* for the Respondents.

F

The Order of the Court was delivered by

KRISHNA IYER, J.—The Code of Criminal Procedure clothes this Court with power under s. 406 to transfer a case or appeal from one High Court or a Court subordinate to one High Court to another High Court or to a Court subordinate thereto. But it does not clothe this Court with the power to transfer investigations from one police station to another in the country simply because the first information or a remand report is forwarded to a Court. The application before us stems from a misconception about the scope of s. 406. There is as yet no case pending before any Court as has been made clear in the counter affidavit of the State of Tamil Nadu. In the light of this counter affidavit, nothing can be done except to dismiss this petition.

G

H

If the petitioners are being directed to appeal in a far-off Court during investigatory stage it is for them to move that Court for appropriate orders so that they may not be tormented by long travel or otherwise teased by judicial process. If justice is denied there are

other redresses, not under s. 406, though it is unfortunate that the petitioners have not chosen to move that court to be absolved from appearance until necessitated by the circumstances or the progress of the investigation. To come to this Court directly seeking an order of transfer is travelling along the wrong street. We are sure that if the second petitioner is ailing, as is represented, and this fact is brought to the notice of the Court which has directed her appearance, just orders will be passed in case there is veracity behind the representation. We need hardly say courts should use their processes to the purpose of advancing justice, not to harass parties. Anyway, so far as the petition for transfer is concerned, to borrow a cliche, the less said the better and so we dismiss it.

S.R. *Petition dismissed.*