

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL No.688 of 2009
(Arising out of S.L.P. (Crl) No.3156 of 2008)

TGN Kumar

.....Appellant(s)

Versus

State of Kerala & Ors.

.....Respondent(s)

ORDER

Leave granted.

This appeal by the complainant is directed against the order passed by the High Court of Kerala at Ernakulam, dated 24th March, 2008, whereby the order passed by the Sessions Judge, Ernakulam, transferring the trial in the complaint filed by him under Section 420 IPC from the Court of Additional Chief Judicial Magistrate Ernakulam to Judicial First Class Magistrate-II has been affirmed.

The Order had been passed by the Sessions Judge on an application filed by the accused-third respondent herein, expressing apprehension about his getting justice from the Presiding Judge in the Court of Additional Chief Judicial Magistrate on the ground that he was prejudiced against him.

On a mention being made on 9th April, 2008, the operation of the impugned order was stayed. The order continues to be in force till date.

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At the outset, it is pointed out by learned counsel for the appellant that

the Additional Chief Judicial Magistrate, against whom the accused had some grievance, has since been transferred to some other place and, therefore, the question of his influencing the trial or the final verdict does not arise. Learned counsel, thus, submits that the order passed by the Sessions Judge may be set aside and the Additional Chief Judicial Magistrate should be directed to dispose of the matter expeditiously as the said transfer order has resulted in a long delay in the disposal of the case.

Having heard learned counsel for the parties, we are of the view that since the Additional Chief Judicial Magistrate against whose conduct the accused had reservations, has been transferred, the cause for any apprehension in the mind of the accused-respondent does not survive. Therefore, in the light of the said subsequent event, we feel that there is no point in giving effect to the order of transfer passed by the Sessions Judge.

Accordingly, the appeal is allowed and the impugned orders are set aside. The learned Additional

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Chief Judicial Magistrate shall now proceed with the case and conclude the trial expeditiously.

.....J.

[D.K. JAIN]

.....J.

LODHA]

[R.M.

**NEW DELHI,
APRIL 09, 2009.**

