

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 568 of 2016**

State Of Chhattisgarh Through : Station House Officer, Police Station Berla,
District Bemetara, Chhattisgarh

---- Petitioner**Versus**

1. Balchand Sahu S/o Duklau Ram Sahu Aged About 28 Years R/o Ashok Nagar, Gudiari, District Raipur, Chhattisgarh
2. Abhay Singh S/o Dilip Singh Aged About 17 Years 6 Month R/o Vikas Nagar, Gudiari, District Raipur, Chhattisgarh
3. Hitendra Sinha S/o Usher Sinha Aged About 17 Years 6 Month R/o Purani, Bastti, Gogaon, Gudiari, District Raipur, Chhattisgarh

-----Respondents

For Petitioner/State:
For Respondents:

Shri Om P. Sahu, Govt Advocate.
Shri Pushpendra Kumar Patel, Advocate.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

2.8.2016

1. The present Petition under Section 186 Cr.P.C has been filed seeking for transfer of the Sessions Trial i.e. Sessions Trial No.159/2014 before the Court of Additional Sessions Judge (FTC), Raipur for the offence punishable under Sections 363 and 364/34 IPC to the Court of Additional Sessions Judge, Bemetara where the trial is going in Sessions Trial No.60/2014 pending consideration against the same accused persons for the offence punishable under Sections 302, 376 and 201/34 IPC and under Sections 4 & 6 of Protection of Children against Sexual Offences Act.

2. Brief facts of the instant case are that a missing report was lodged by the father of the deceased Shobha Jha at Raipur and against which the Court below has also registered a First Information Report at P.S. Gudiari, Raipur against the offence punishable under Sections 363& 364/34. Later on, the

dead body of the deceased Shobha Jha had been recovered at river Kharung on the basis of which merg and subsequent investigation was done. The matter was put to trial before the Additional Sessions Judge, Bemetara wherein Sessions Trial No.60/2014 was registered and the accused persons are being prosecuted for the offence under Sections 302, 376 and 201/34 IPC and under Sections 4 & 6 of Protection of Children against Sexual Offences Act. Simultaneously, against the present against the present report at Raipur, the police authorities have also filed a charge sheet and a case before the Additional Sessions Judge (FTC), Raipur in Sessions Trial No,159/2014 for the offence punishable under Sections 363 and 364/34 IPC.

3. Learned State Counsel now has preferred this application submitting that the trial at Raipur as well as Bemetara Court is against the same accused persons and the victim in the instant case also is the same and for proper adjudication, it would be appropriate that if both the trials are conducted at one Court. He submits that taking into consideration the fact that the offence for which the trial is now held at Bemetara is the major offence and therefore the case at Raipur may be transferred to Bemetara. He further submits that at this juncture, Raipur Court has already concluded the trial and the matter is fixed for arguments of either side on 10.8.2016. Therefore, if an order is passed in the said trial, that may have an adverse bearing in the outcome of the trial which is being conducted at Bemetara Court against the same accused in respect of the same offence.

4. Learned Counsel for the Respondents however opposes the same and submits that the offences registered against the accused persons in both the cases are entirely different and therefore, both the trials need not be clubbed together and it can go independently. He further submits that the offence of kidnapping can be decided independently at Raipur Court and it need not be

sent for a joint trial at Bemetara Court.

5. Having considered the rival contentions and on perusal of the records, it appears that the offence in respect of the two trials is same and the only difference is that the missing report in the case of kidnapping is lodged at Raipur whereas subsequently, dead body of the deceased was recovered on the subsequent investigation conducted therein and the matter was put to trial under Sections 302, 376 and 201/34 IPC at Bemetara Court. The nature of evidence is common in the instant case and if the two cases are decided by the two Courts below, that may have an adverse bearing on the trial which is pending consideration before the Bemetara Court and therefore, in the opinion of this Court, ends of justice would meet if the Sessions Trial pending at Raipur i.e. Sessions Trial No.159/2014 before the Court of Additional Sessions Judge (FTC) is transferred forthwith to the Court of Additional Sessions Judge, Bemetara for a joint trial to be held along with Sessions Trial No.60/2014.

6. Registry is directed to intimate the Court at Raipur forthwith the order of this Court and it should also be informed that the record should also be sent to the Court at Bemetara where 29.8.2016 is the date fixed for prosecution witnesses.

7. With the aforesaid observations, the Cr.M.P. is allowed and disposed of.

Sd/-
(P. Sam Koshy)
JUDGE