

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**TPCR No. 9 of 2017**

Deepak Jha, S/o. Late Govind Jha, Aged About 31 Years, R/o. Sichai Colony, H.No. H-18, Darri, Tahsil Katghora, District Korba, Chhattisgarh.

---- **Petitioner**

**Versus**

State Of Chhattisgarh, Through District Magistrate Korba, Chhattisgarh.

---- **Respondent**

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For Applicant : Mr. Sumit Singh, Advocate

For Respondent : Mr. Ramakant Pandey, Panel Lawyer  
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**Hon'ble Shri Justice Goutam Bhaduri**

**Order on Board**

**18.04.2017**

Heard

1. The petition is against the order dated 20.03.2017 passed by the learned Sessions Judge, Korba, District Korba (C.G.) in Misc. Criminal Case No.6/2017 whereby the application under Section 408 of Cr.P.C. has been rejected.
2. It is submitted by the petitioner that a criminal case bearing No.46/2016 in between State of C.G. v/s. Pradeep Kumar Jha & Another was fixed on 16.12.2016 before the First A.S.J. Katghora, District Korba and on that date one of the witness though was present, the counsel came late and statement of witness was recorded and no cross-examination could take place for want of Advocate, which has caused serious prejudice. Consequently, an application was moved to recall the witness, which was allowed. Subsequently, on different dates, some of the witness were present, however, after hearing the case, the Court itself has expressed its view that the case may be transferred to some other Court and simultaneously an application was filed under Section

408 of Cr.P.C. before the Sessions Judge to transfer the case to other Court, but the same was dismissed. Therefore, this petition.

3. Perused the order dated 20.03.2017 as also the order sheet of the First A.S.J. dated 27.01.2017. Reading of the order sheet dated 27.01.2017 of the First A.S.J. would show that the trial Court has rescued itself to decide the case and requested the Sessions Judge to transfer the case to some other Court.
4. Subsequently, when the application was also filed on behalf of the accused/applicant herein to transfer the case to some other Court, the same was dismissed. The reading of the order sheets of the trial Court would show that the trial Court has also expressed itself to rescue from case to decide the same. In the facts of this case, it appears that in order to advance the cause of justice on merits, the prayer made by accused for transfer of case to other Court falls in line to the request made by the Court itself which too has sought for transfer. Therefore, in view of existing facts, no prejudice should be caused either to accused or the prosecution and eventual justice should be done.
5. In facts of case, I deem it proper to advance the cause of justice on merits to transfer the case to learned Sessions Judge, Korba, who may decide the case himself or may transfer the same to any other Sessions Judge for further adjudication of the case.
6. With such observation, the petition stands disposed off.

Sd/-  
**(Goutam Bhaduri)**  
Judge