IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2281 of 2018

Arising Out of PS. Case No.-118 Year-2017 Thana- NAWANAGAR District- Buxar

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CHANDRABHAN DUBEY @ GOPALJI DUBEY @ CHANDRABHAN DEWEDI son of Brahmachari Dubey @ Mintu Dubey @ Brahmachari Dewedi, resident of Village- Kadsar, P.S. Nawanagar (Sonbarsha), District- Buxar.

... ... Petitioner/s

Versus

The State of Bihar through the Secretary, Department of Law, Bihar, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Anil Kumar, Advocate
For the Respondent/s : Mr. Mithilesh Kumar Upadhyay, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

3 25-10-2018 The petitioner is seeking transfer of Sessions Trial No. 53 of 2018 arising out of Nawa Nagar P. S. Case No. 118 of 2017 presently pending in the court of learned F.T.C. I, Buxar.

Learned counsel for the petitioner submits that he has moved the transfer petition on the grounds that the learned Presiding Officer is not recording the deposition of the witnesses and at the same time he is cutting down the statements which are prejudicial to the interest of the defence. Learned counsel has relied upon the copy of the deposition of PW 2 which has been brought on record by way of supplementary affidavit. It is submitted that the cutting on the deposition may be seen clearly.

Learned counsel for the State has opposed the prayer.

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It is submitted that at a belated stage the defence has filed a petition seeking transfer of the case. It is submitted that in course of deposition if the Presiding Officer was not correctly recording the statement of the witnesses, the same could have been objected to by filing an appropriate application in the court below itself. It is submitted that if the petitioner has not filed such application in course of trial before the court concerned at the earliest opportunity, the same cannot be and should not be taken as a ground seeking transfer of court.

This Court is of the considered opinion that the petitioner not having taken any such objection in course of trial before the Presiding Officer of F.T.C. I, Buxar, cannot be allowed to take a plea at this stage for purpose of transfer of the case.

This application is devoid of merit and it is accordingly, dismissed.

(Rajeev Ranjan Prasad, J)

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