

07-03-2022
Subha
Item-07
Ct -.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 3552 of 2017

In Re: An application under Section 407 read with Section 482 of the Code of Criminal Procedure, 1973 filed in connection with G. R. Case No. 447 of 2013 arising out of Haldibari P. S. Case No. 181 of 2013 dated 02.09.2013 under Sections 440/326A/34 of the Indian Penal Code.

In the matter of : ***Mala Roy***

...Petitioner.

Mr. Tapan Dutta Gupta
Mr. Sandipan Pal

.....for the Petitioner.

Mr. Swapan Banerjee, Id. APP,
Mr. Suman De

..for the State.

Affidavit of service so filed by the petitioners be kept with the record.

Mr. Banerjee, learned advocate appearing on behalf the State draws the attention of this court to the order passed in Criminal Appeal No. 289 of 2019 wherein the order passed on 05.12.2017 in CRR 3552 of 2017 was set aside. The petitioner is insisting on transfer of the case from the learned Additional Sessions Judge, Mekhliganj to the learned Sessions Judge, Jalpaiguri.

The main thrust of the contention of the petitioner is that the court at Jalpaiguri is situated within a distance of 25 km from the residence of the petitioner, whereas the court at Mekhliganj is

situated almost 100 km away from the residence of the present petitioner.

It is further contended that most of the witnesses are staying near the court at Jalpaiguri.

Having regard to the reasons so assigned for transferring the case by the petitioner, I am of the view that it is the administrative decision, which has created the divisions of court according to the districts.

The cause of action arose within the jurisdiction of the concerned court at Mekhliganj. If a jurisdiction has been rightly invoked merely because of convenience of the parties, a case cannot be transferred to a nearby jurisdiction until and unless exceptional circumstances are made out.

I am of the opinion that the present case does not make out any exceptional circumstances for being transferred from the court of the learned Additional Judge, Mekhliganj to the court of the learned Sessions Judge, Jalpaiguri.

Accordingly, no interference is called for. If the records of the case have been transmitted to the court of the learned Sessions Judge at Jalpaiguri, steps must be immediately taken to re-transfer the records to the jurisdictional court at Mekhliganj.

Accordingly, learned Registrar (Judicial), High Court, Calcutta is directed to intimate this order to both the courts so that within a period of a fortnight, the records of the case are available before the learned Additional Sessions Judge, Mekhliganj.

The petitioner would be at liberty to raise all the points related to the materials of the case and her entitlement before the learned Additional Sessions Judge, Mekhliganj

So far as the transfer of the case concerned, the transfer is not acceded to and accordingly, the main revisional application being CRR 3557 of 2017 is dismissed.

All pending applications, if any, in connection with the revisional application, are consequently disposed of.

Interim order, if any, is hereby vacated.

All concerned parties are to act in terms of a website copy of this order duly downloaded from the official website of this court.

(Tirthankar Ghosh, J.)

