

29.07.2021
Ct No. 35
D/L 7
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C.R.R. 665 of 2021
(Via Video Conference)

Re: An application under Sections 397/401 read with Section 482 of the Code of Criminal Procedure, 1973.

In re : Chinmoy Kar & Ors.

... Petitioners

Mr. Santanu Chatterjee,

... for the petitioners

Ms. Sukanya Bhattacharyya,
Md. Kutubuddin,

... for the State

By an order dated December 18, 2019, the learned Sessions Judge, Burdwan, in a Criminal Misc. Case no. 1074 of 2019 under Sections 408/409 of the Code of Criminal Procedure, 1973 directed the withdrawal of Monteswar Police Station Case No. 51 of 2019 dated 22.02.2019 from the Court of the learned Additional Chief Judicial Magistrate, Kalna, for being transferred to the Court of the learned Additional Chief Judicial Magistrate, Burdwan.

The said order was challenged before this Court by filing a revisional application being C.R.R. 1640 of 2020.

By an order dated January 8, 2021, a learned Judge of this Court was pleased to set aside the said order dated December 18, 2019, and directed the learned Sessions Judge, Burdwan, to

consider the case afresh after hearing the de facto complainant, the accused and the State.

It appears that the order dated January 8, 2021, was modified by the learned Judge on January 15, 2021, and the following order was passed: -

“Accordingly, the parties are directed to appear before the learned Sessions Judge, Burdwan on 28th January, 2021.

No further notice will be served upon the parties or their representatives. The parties or their representatives would suo motu go and appear before the learned Sessions Court.

Learned Sessions Judge, Burdwan is directed to take into account the order dated 8th January, 2021 passed by the High Court, Calcutta.”

It appears from the order impugned, dated February 11, 2021, in this revisional application that the learned Sessions Judge, Burdwan, pursuant to the said order dated January 8, 2021, passed by this Court, took up the said Criminal Misc. Case no. 1074 of 2019 for hearing and as no one appeared on that date before the learned Sessions Judge, the learned Sessions Judge dismissed the application for default.

Mr. Santunu Chatterjee, learned advocate for the petitioners, submits that the petitioners remained unrepresented before the learned Sessions Judge on February 11, 2021, due to the illness of their learned advocate, Mr. Tarun Kumar Banerjee.

The order dated January 8, 2021, passed by this Court mandates that the application for transfer should have been heard on merit after hearing the parties.

Since it has been submitted by the learned advocate for the petitioners that they were prevented by sufficient cause from appearing before the learned Sessions Judge on February 11, 2021, I dispose of this revisional application by giving liberty to the petitioners to file an application before the learned Sessions Judge, Burdwan for recalling of the order dated February 11, 2021. If any such application is filed within a period of two weeks from date, the learned Judge will decide the same in accordance with the law.

The revisional application being **C.R.R. 665 of 2021** is, thus, disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

(Kausik Chanda, J.)