

CRR 1729 of 2021
(Through Video Conference)

In Re: - A petition under Section 407 and Section 482 of the Code
of Criminal Procedure, 1973.
And

In the matter of: **Paran Palai @ Paran Chandra Palai & Anr.**
.... Petitioners

Mr. Kallol Mondal
Mr. Krishan Ray,
Ms. Amrita Chel,
Mr. Souvik Das,
Ms. Anamitra Banerjee
...For the Petitioners

Mr. Rana Mukherjee,
Mr. Prantick Bose
...For the State

Mr. Anup Dasgupta
...For the Opposite Party No. 2

Mr. Rana Mukherjee, learned advocate, who usually appears for
the State, is requested to appear in this case.

Let the appointment of Mr. Mukherjee be regularised.

It appears that petitioner no. 1 is the brother of the opposite
party no. 2/de-facto complainant of the criminal case arising out of
Tamluk Police Station Case No. 58 of 2021 under Sections
341/323/325/379/506/34/427 of the Indian Penal Code, 1860,
pending before the learned Chief Judicial Magistrate at Tamluk.
Petitioner no. 2 is the son of petitioner no. 1. The case is at the
investigation stage.

It is submitted by Mr. Kallol Mondal, learned advocate,
appearing for the petitioners that since the opposite party no. 2 is a
practising advocate of Tamluk Court, Purba Medinipur, the

petitioners are facing difficulty in facing the said criminal case before the said Court. It has been alleged by Mr. Mondal that the petitioners could not even surrender before the learned Magistrate, pursuant to the order passed by this Court whereby they were granted anticipatory bail. They were not even allowed to obtain certified copies of the order because of the problems created by the opposite party no. 2.

Mr. Anup Dasgupta, learned advocate, appearing for the opposite party no. 2 denies the allegations made by Mr. Mondal. It has been submitted by Mr. Dasgupta that there is a partition suit pending between the parties and the petitioners are not facing any difficulty in conducting the said case, as such the petitioners' allegation is baseless.

I am of the view that since the opposite party no. 2 is a practising advocate of the Tamluk Court, the possible disadvantages of the petitioners in facing the criminal case before the said Court cannot be overlooked. The petitioners should be provided with a level playing field.

In that view of the matter, Tamluk Police Station Case No. 58 of 2021 dated January 22, 2021 under Sections 341/323/325/379/506/34/427 of the Indian Penal Code, 1860, is transferred to the Court of the learned Additional Chief Judicial Magistrate, Ghatal, Paschim Medinipur.

It is made clear that the investigation will be carried out by the same investigating officer and upon completion of the investigation, the report in terms of Section 173 of the Code of Criminal Procedure, 1973, will be filed before the learned Additional Chief Judicial Magistrate, Ghatal.

Mr. Rana Mukherjee, learned advocate, appearing for the State submits that the investigating agency under the scheme of the Code of Criminal Procedure, 1973 cannot file the report before a Magistrate other than the jurisdictional Magistrate.

I am of the opinion that when a criminal case is transferred by the High Court to a Court in the exercise of its authority under Section 407 read with Section 482 of the Code of Criminal Procedure, 1973, the investigating agency is obliged to file its report before the said Court.

Accordingly, the revisional application being **CRR 1729 of 2021** stands allowed.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Kausik Chanda, J.)