

**Form No. J(2)**

***IN THE HIGH COURT AT CALCUTTA  
CRIMINAL REVISIONAL JURISDICTION***

Present:

**The Hon'ble Justice Jay Sengupta**

**C.R.R. 1098 of 2022**

**Ajoy Kumar**

**-vs-**

**The State of West Bengal & anr.**

For the Petitioner : Mr. Debasis Kar,  
Mr. Husen Mustafi.

Heard on : 06.04.2022

Judgment on : 06.04.2022

**Jay Sengupta, J.:**

This is an application seeking transfer of a case being Criminal Appeal No. 1 of 2019 presently pending before the learned Additional Session Judge, 2<sup>nd</sup> Court, Barrackpore, North 24 Parganas to another Court within the same jurisdiction.

Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner was convicted under Section 3 of the RP (UP) Act, 1966 by a judgment and order dated 26.12.2018 passed by the learned Judicial Magistrate, Barrackpore, North 24 parganas

in Case No. C. 261 of 2007. Being aggrieved the petitioner preferred an appeal before the learned Sessions Court. On 02.01.2019, the appeal was admitted and was transferred for disposal. Thereafter, on a few dates the matter was taken up for hearing. The case of the petitioner is that the Presiding Officer of the learned Court was not willing to hear all the submissions made on behalf of the appellant. He was also disinteresting in perusing the judgments cited on behalf of the appellant. That is why the petitioner was constrained to file an application before the learned Court on 07.03.2022 praying for transfer of the case the Court to another Court. However, learned Appellate Court dismissed the said application although granting liberty to the appellant to move this Court with a prayer for seeking transfer.

I have heard the submissions of the learned Counsel for the petitioner and have perused the revision petition

It is true that for seeking transfer of a case or an appeal from one Court to another on the ground of bias, the petitioner need not strictly prove the existence of a bias in the mind of the Presiding Officer. However, he has to entertain a reasonable belief that he would not get justice before that Court.

However, after perusal of the order sheet, it appears that the appeal was heard in part on 16.11.2021 and the next date was fixed for further hearing on 07.03.2022. On the very next date the appellant/petitioner filed an application before the same Court

seeking transfer of the proceeding alleging bias. The petitioner/appellant ought to know that the Court itself has no power to transfer the case to another Court. Thus, it could only have been an attempt to embarrass the learned Judge.

It often happens that a litigant entertains a belief that he would not get a favourable order from a particular Court and therefore, employs different means to get the matter out of that Court. It may or may not be the case here. However, the application filed for transfer before the same Court was a futile exercise and could have been made only to intimidate the learned Judge.

The learned Judge dismissed the said petition, but granted liberty to the petitioner/appellant to move an application seeking transfer before this Court. Therefore, it is evident that he had no special interest in getting the matter heard before him.

In view of the above, I do not find that the circumstances were such that the petitioner could have entertained a reasonable belief that he would not get justice before the learned trial Court.

Therefore, I do not find any merit in this application.

Accordingly, the prayer for transfer is rejected.

However, there shall be no order as to costs.

The learned Appellate Court is requested to hear the submissions of the learned Counsel for the parties in the appeal and accept written notes of submission, if filed by any of the parties, and thereafter, conclude the proceeding as expeditiously as possible.

With these observations, the revisional application is disposed of.

Urgent photostat certified copies of this judgment may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

**(Jay Sengupta, J.)**

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