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C.R.R.2049 of 2021

In Re: An application under Section 401 read with Section 482 of the
Code of Criminal Procedure;

Shamim Aktar Khan
Versus
State of West Bengal and others

Mr. Jiban Kumar Bhattacharya,
Mr. Ramasish Mukherjee,
Mr. Sk. Nezamuddin,
Mr. Sk. J. Alam.
...for the petitioner.

Mr. Madhusudan Sur,
Mr. Dipankar Paramanick.
...for the State.

Mr. Sankar Nath Mukherjee,
Mr. Niraj Gupta,
Mr. Priyabrata Saha.
...for the opposite party no.2.

Mr. Amal Krishna Samanta.
...for the opposite party nos.3 to 9.

The grievance of the present petitioner relates to the order dated 10.02.2020 passed by the learned Sessions Judge, Purba Medinipur in Criminal Misc. Case No.2018 of 2019, thereby allowing the application under Section 409 of the Code of Criminal Procedure, directing G.R. Case No.20/16 arising out of Panskura Police Station Case No.02/16 dated 01.01.2016 pending before the learned Judicial Magistrate, 2nd Court, Tamluk, Purba Medinipur and the S.T. No.03(09)2019 (corresponding to Sessions Case No.213/19) arising out of Panskura Police Station Case No.08/16 dated 02.01.2016 pending before the learned Sessions Judge, Purba

Medinipur, stands withdrawn and both the case records be placed in the court of learned F.T.C-I, Tamluk, Purba Medinipur for trial and disposal.

I have perused the records of the case, the FIR and the charge-sheet.

The learned Sessions Court allowed the transfer of Panskura Police Station Case No.02/16 from the court of the learned Judicial Magistrate, 2nd Court, Tamluk, Purba Medinipur on the ground that the date and the place of occurrence of the alleged two incidents of the other criminal case being Panskura Police Station Case No.08/16 dated 02.01.2016 reflect that parties are more or less identical, the time of occurrence of the two incidents are within a gap of four hours and accordingly both the cases are linked together.

I find that Panskura Police Station Case No.02/16 relates to an incident which occurred at an around 5.00 p.m. The case relates to fact that when the complainant and her husband reached at the bus stand, they were wrongfully restrained by the accused persons and they were assaulted with iron rod and they were threatened with dire consequences over the issue of previous grudge. As a result, the complainant's husband sustained injury in his hand and fell down on the ground. Local people rushed at the spot. The complainant was also assaulted with iron rod and the accused persons outraged her modesty. The accused persons also snatched away the complainant's ear ring forcefully and stole away cash from the pocket of her husband and also damaged the motor

cycle. Over the said incident, the case was registered.

Panskura Police Station Case No.08/2016 took place at around 9.00 P.M. wherein around eight persons being armed with lathi, iron rod and deadly weapons abused and attacked the house of the complainant with an intention to murder him/them. The accused persons also abused the female members and also outraged their modesty and stole away gold ornaments, cash and damaged the vehicle. The father of the complainant sustained grievous injury and his right hand was broken, he was treated at Uttar Mechogram BPHC at Pitpur. Thereafter, he was shifted to CMR Hospital, Kolkata.

On an analysis of the aforesaid two incidents, it is transparent that the second incident which occurred at 9.00 P.M. on 31.12.2015 was an outcome of the initial incident for which Panskura Police Station Case No.02/16 was registered for investigation. The two are not case and counter case. The second case obviously is a counter blast to the first case to the limited extent that out of the grudge/anger, the second incident took place. Regarding the nature of the offence, there is no connection as the incidents are not arising at the same time being complained of by two different parties. One case has got no bearing on the other as both the cases are related to previous grudge. The incidents are different and the motive obviously is different. Accordingly, I do not think that both the cases are required to be tried by one and the same court.

By the earlier order, report was called for from the State.

Two reports have been submitted which reflect that in respect of Panskura Police Station Case No.08/16, charge has already been framed and trial is in progress. While in case of Panskura Police Station Case No.02/16, the next date has been fixed for framing of charge on 17.02.2023. Let the reports be kept with the record.

Having regard to the same, I am of the opinion that there has been no progress since Panskura Police Station Case No.02/16 was transferred from the court of the learned Judicial Magistrate, 2nd Court, Tamluk, Purba Medinipur to the court of the learned F.T.C-I, Tamluk, Purba Medinipur.

In view of the observations made above, the order dated 10.02.2020 passed by the learned Sessions Judge, Purba Medinipur is hereby set aside. The records of the case relating to G.R. Case No.20/16 arising out of Panskura Police Station Case No.02/16 be transferred to the court of the learned Judicial Magistrate, 2nd Court, Tamluk, Purba Medinipur from the court of the learned F.T.C-I, Tamluk, Purba Medinipur for trial and disposal.

Accordingly, CRR 2049 of 2021 is allowed.

Pending application, if any, is consequently disposed of.

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

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

(Tirthankar Ghosh, J.)

