

07-03-2022
Subha
Item-11
Ct -.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

C.R.R 3390 of 2018

In Re: An application under Section 482 read with Section 407 of the Code of Criminal Procedure, 1973.

In the matter of : **Raju Sk.**

...Petitioner.

Mr. Tapas Kumar Ghosh
Mr. Tanmoy Chowdhury
.....for the Petitioner.

Mr. S. G. Mukherji, Id. PP,
Ms. Faria Hossain
Mr. Anand Keshari
.....for the State.

The present petitioner happens to be the complainant in connection with Muraroi P. S. Case No. 104 of 2017 dated 18.04.2017 under Sections 302/34 of the Indian Penal Code.

Another case arose out of the same incident, which is Muraroi P. S. Case No. 105 of 2017 dated 18.04.2017 and the same is pending before the learned Additional Chief Judicial Magistrate, Rampurhat.

The grievance of the petitioner is that an application was taken out before the learned Sessions Judge, Birbhum at Suri under Section 408 IPC in connection with both the cases for being tried by one and the same court. However, the learned Sessions Judge instead of transmitting the case record to one and the same court at Rampurhat surprisingly transferred the cases to Suri,

Birbhum.

Record of the case reflects that Muraroi P. S. Case No. 104 of 2017 dated 18.04.2017 at the relevant time was numbered as Sessions Case No. 87 of 2017 and was pending before the learned Additional Sessions Judge, Rampurhat wherein the charges were already framed and schedule was fixed for examination of the witnesses.

None of the cases were outside the jurisdiction of the Sub-Division of Rampurhat and there was complaint from either parties for transfer of the case. The only issue was whether the Magistrate triable case should be tried with the Sessions triable case.

Consequently, the following directions are being passed by this court:-

1. Sessions Case No. 87 of 2017 should be tried by the learned Additional Sessions Judge, Birbhum at Rampurhat. If the records have been transmitted to any court outside its jurisdiction, the records must be immediately transmitted to the same court.
2. Muraroi P. S. Case No. 105 of 2017 dated 18.04.2017 should be tried by the same sessions court, although the allegations made therein are magistrate triable. Accordingly, records of the Muraroi P. S. case No 105 of 2017 dated

18.04.2017 be also transmitted to the learned Additional Sessions Judge, Birbhum at Rampurhat.

3. Both the cases must be tried according to the decision of the Supreme Court reported in *Sudhir & Ors. -vs- State of M. P., reported in (2001) 2 SCC 688.*

With the aforesaid directions, the present revisional application being CRR 3390 of 2018 is disposed of.

Accordingly, learned Registrar (Judicial), High Court, Calcutta is directed to intimate this order to the court of the learned Sessions Judge, Birbhum so that effective steps can be taken for organizing the records before the court mentioned above within a period of fortnight from date.

Report so submitted by Mr. Keshari, learned advocate for the State be kept with the record.

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

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.)

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