

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7380 of 2020

Arising Out of PS. Case No.-143 Year-2013 Thana- MINAPUR District- Muzaffarpur

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SHANKAR BAITHA Son of Late Faujdar Baitha R/o Village- Fulwaria, P.S.-
Minapur, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Md. Shahid Son of Md. Ramjan R/o Village- Phulwariya, P.S.- Minapur,
Distt- Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Krishna Kant Singh
For the Opposite Party/s : Mr.Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 25-04-2023 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

This application is being filed for quashing of the order dated 26th July, 2019 passed by learned Sessions Judge, Muzaffarpur in Criminal Revision No. 122 of 2019 whereby and whereunder the learned Magistrate has been directed to send the record of Minapur P.S. Case No. 143 of 2013 to the Court of learned 6th Additional Sessions Judge, Muzaffarpur for trial and disposal as the counter version of the case bearing Minapur P.S. case no. 110 of 2013 is pending before the Court.

The learned counsel for the petitioner has challenged the impugned order dated 26.07.2019 on the grounds that the petition filed by the petitioner under Section 323 of the Code was not maintainable and therefore, it was rightly rejected by



the Magistrate and the learned Sessions Judge has passed the impugned order which is illegal as the order impugned is an interlocutory order and the Magistrate has no power to transfer the case to the Court of the Special-Judge.

In the opinion of this Court, considering the law laid down starting from *Madhu Limaye Vs. State of Maharashtra (1977) 4 SCC 551* has held that any order which finally decides the question raised by the petitioner is not an interim order and also in my opinion the order of the learned Magistrate was not an interim order, it was a final order with regard to the transfer of the case to the Court of Special Judge and therefore, the interference of the Magistrate cannot be termed to be illegal and the learned Sessions Judge has rightly held that two cases arising out of the same occurrence must be tried by the same Court. In view of the above, there is no illegality in the impugned order. This application is dismissed.

The Special-Judge is directed to proceed with the cases without any delay.

(Sandeep Kumar, J)

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