

23.08.2023
Serial no. 34
[G.S.D]

CRR 740 of 2023

In the matter of : Soumak Sarkar & Ors.

... .. Petitioners

Mr. Rajiv Lochan Chakraborty
Mr. Sumanta Banerjee
Mr. Priyanjit Kundu

... For the Petitioners

The subject-matter of challenge relates to the order dated 4th February, 2023.

Learned Advocate submits that the Learned Sessions Judge, Dakshin Dinajpur at Balurghat, did not take into account the issue which were canvassed for transfer of the case from Balurghat to Buniadpur.

Having regard to the issue which has been canvassed particularly with regard to the distance and that the cases are pending before the said Court, I am of the opinion that if the jurisdiction of the Court is rightly invoked, only the distance and the fact that cases are pending before the concerned Court, cannot be a ground for transfer of the case.

In case, if any inconvenience is faced by the parties in participating in the trial in respect of the offence, which

have been complained of, the Learned Trial Court, *in seisin*, of the matter, would not always insist on physical appearance of the accused persons.

However, they should be represented on the date so fixed by their Learned Advocate and an undertaking be given by the concerned parties that they would not challenge their identity or the factum of evidence being recorded in their absence would prejudice them.

The Learned Trial Court would, in the fitness of circumstances, see that no inconvenience is faced by the accused persons only because of distance and any application under Section 317 of the Cr.P.C. also may be allowed for a particular day for dispensing of the personal appearance/physical appearance of the accused persons.

With the above observations, CRR 740 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order, duly collected from the official website of the Hon'ble High Court, Calcutta.

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

(Tirthankar Ghosh, J.)

