

29.08.2023
SL.72
Ct no.34
Saswata

CRR 3257 of 2023

In Re:- An application under Section 407 of the Cr.P.C.

In the matter of : **Arindam Ghosh**

... petitioner

Mr. Joydeep Bhattacharya

Ms. Labony Ray

...For the petitioner

1. The petitioner has prayed for transfer of proceeding of MR Case no. 1 of 2023, which is a proceeding under Section 125 of the Code of Criminal Procedure and is pending before the jurisdictional Court at Kharagpur.
2. Having regard to the issue so canvassed by the learned advocate for the petitioner that in spite of the opposite party no. 2 residing at Bidhannagore, she is instituting the case within the jurisdiction of the Court at Kharagpur where her paternal home is situated.
3. I am of the view that such issue is a question of fact to be decided whether purposely, intently and / or malafidely such case has been instituted and there has been a wilful attempt on the part of the opposite party no. 2 to harass the present petitioner.
4. Having regard to the contentions advanced in the revisional application, the issue is to be first addressed before the original Court having jurisdiction, as in this case the opposite party has by way of cogent materials invoked the provisions of law.

5. In view of the contentions advanced by the petitioner, because of inconvenience, it would be difficult for the petitioner to attend the Court at Kharagpur, I direct that in case the petitioner applies to the Learned Judicial Magistrate for being represented through a learned advocate on usual undertakings, the learned Trial Court will not insist on physical appearance, provided no delay is caused at the instance of the petitioner in course of progress of the proceedings under Section 125 of the Cr.P.C.
6. No case has been made out before this Court for invoking the jurisdiction under section 407 of the Cr.P.C.
7. The petitioner shall be at liberty to move the appropriate Court as indicated above.
8. With the above directions, the revisional application being CRR 3257 of 2023 is ***disposed of***.
9. Pending application, if any, is also disposed of.
10. Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

(Tirthankar Ghosh, J.)