

10-10-2023
subha
Item no. 09
Ct no.34

IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction

CRR 3591 of 2023

Nikhil Bepari
-versus-
The State of West Bengal & Anr.

Mr. Arnab Chatterjee
Ms. Dhansree Biswas
Ms. Poulomi Bose
....for the petitioner.

Mr. Arijit Ganguly
Mr. Sanjib Kumar Dan
...for the State.

Petitioner is directed to serve a copy of the revisional application upon Sanjib Kumar Dan, learned advocate who ordinarily appears on behalf of the State. His appointment may be regularized by the concerned Authorities in due course.

Learned advocate appearing for the petitioner submits that he has prayed for transfer of the case from the court of the learned Additional Sessions Judge, 1st court, Barasat to any court within the said sessions division. I find from the records of the case that the grievance of the petitioner is that the learned trial court in course of examination of the witnesses who happen to be the mother of the victim girl had interjected and asked the witness that merely stating the word 'torture' would not be sufficient and the witness was required to say more on the issue. At this stage, learned advocate for the petitioner/defence advocate questioned the impartiality of the court and filed an application to that effect. The said application was kept with the records of the case. An

application under Section 408 read with Section 409 of the Code of Criminal Procedure was moved before the sessions court. The sessions court was of the opinion that once trial commences the court of sessions judge was no longer empowered to transfer the case. Be that as it may, the defence advocate submitted that the accused prejudiced as orally the learned trial court asked for explanation to the witness concerned. The learned trial court is directed to put the questions to the witness if so required. Such questions must be recorded in the evidence. Answers to that effect must also be recorded in the evidence in the examination-in-chief or cross-examination or when clarification is required from the particular witness concerned. If such process is followed according to law none of the parties would feel prejudiced in the trial being conducted before the court concerned. There could have been a heated altercation in the court room but having regard to the fact that all the parties are trying their level best for arriving at a conclusion for betterment of justice, from the perspective of each of the individuals, the judge, for the ends of justice, the defence lawyer for the best efforts he can give for the purpose of his client/accused, I am of the opinion that without transfer and without any other ill feeling the case can continue before the court concerned. At this stage, transfer is not granted but all the parties are directed to cooperate with each other so that the trial can be taken to its logical conclusion within a reasonable period of time.

The learned trial court is directed to recall PW6 and grant opportunity to the present petitioner/accused to cross-examine. On

the next date so fixed if there is no impediment the learned trial court would take steps so that PW6 is allowed to be cross-examined. All efforts be taken to conclude the trial within a reasonable period of time as the accused is in custody in connection with the instant case.

With the aforesaid observations, the present revisional application being CRR 3591 of 2023 is disposed of.

Pending applications, if any, are consequently disposed of.

All concerned parties are to act in terms of a copy of this order duly downloaded from the official website of this court.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

[Tirthankar Ghosh, J]