

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18944 of 2024

Arising Out of PS. Case No.-277 Year-1994 Thana- ARA NAGAR District- Bhojpur

Saif Ahmad, Son Of Mumtaz Ahmad Resident Of Singahi Kala, P.S. - Ara
Town, District - Bhojpur, Ara

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Late Riyasat Hussain Son Of Late Hafijul Haque Resident Of Singahi Kala,
P.S. - Ara Town, District - Bhojpur, Ara
3. Shafi Rizwan Son Of Late Riyasat Hussain Resident Of Singahi Kala, P.S. -
Ara Town, District - Bhojpur, Ara
4. Fasi Rizwan @ Tunnu Son Of Late Riyasat Hussain Resident Of Singahi
Kala, P.S. - Ara Town, District - Bhojpur, Ara
5. Sannu @ Sana Jamal Son Of Late Riyasat Hussain Resident Of Singahi
Kala, P.S. - Ara Town, District - Bhojpur, Ara
6. Aslam Son Of Enamul Haque Resident Of Singahi Kala, P.S. - Ara Town,
District - Bhojpur, Ara
7. Abdul Manan Son Of Late Enamul Haque Resident Of Singahi Kala, P.S. -
Ara Town, District - Bhojpur, Ara
8. Late Junaaid Ahmad Son Of Late Enamul Haque Resident Of Singahi Kala,
P.S. - Ara Town, District - Bhojpur, Ara
9. Alamgir Son Of Late Nurul Hoda Resident Of Singahi Kala, P.S. - Ara
Town, District - Bhojpur, Ara
10. Firdos Ahmad Son Of Late Sharafat Hussain Resident Of Singahi Kala, P.S.
- Ara Town, District - Bhojpur, Ara
11. Ansar Ahmad Son Of Late Badruddin Resident Of Singahi Kala, P.S. - Ara
Town, District - Bhojpur, Ara
12. Arsad Ahmad @ Dadu Son Of Late Badruddin Resident Of Singahi Kala,
P.S. - Ara Town, District - Bhojpur, Ara
13. Late Istiak Ahmad Son Of Late Sharfat Hussain Resident Of Singahi Kala,
P.S. - Ara Town, District - Bhojpur, Ara
14. Jibbu Son Of Liyaqat Hussain Resident Of Singahi Kala, P.S. - Ara Town,
District - Bhojpur, Ara

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Priyanka Singh
For the Opposite Party/s : Mr. Rana Randhir Singh

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER



2 11-03-2024

1. This is an application under Section 407 of the Code of Criminal Procedure, praying for transfer of Sessions Trial No. 137 of 2001, arising out of Ara Town P. S. Case No. 277 of 1994, instituted for the offences, punishable under Sections 147, 148, 149, 307 and 302 of the Indian Penal Code and Section 27 of the Arms Act, 1959, pending before the Court of learned Sessions Judge, Bhojpur at Ara.

2. The petitioner is the informant. He has prayed for transferring the case from the Court of the learned Sessions Judge, Bhojpur at Ara to any other Court in the district of Patna for the following reasons:

3. The informant previously filed an application to allow the prosecution to examine all the witnesses, who had already been examined in Cr. Misc. No. 11043 of 2010. The said application was dismissed by a Co-ordinate Bench of this Court. The petitioner challenged the said order before the Apex Court, but the Hon'ble Court refused to interfere with the order passed by this Court, as the accused were not going to be prejudiced. The case was, thereafter, transferred to the Court of 7th Court of learned Additional Sessions Judge, Bhojpur at Ara. Subsequently, the accused persons filed an application before the learned Sessions Judge, Bhojpur at Ara on administrative



side for recalling the order and sending it to some other Court, as they apprehended that they might not get fair trial. The learned Sessions Judge did not interfere on administrative side. Therefore, the accused persons filed an application, challenging the order in revision and learned Sessions Judge took up the file of the said accused to his Court, recalling the order of transfer to the Court of the learned Additional Sessions Judge, 7th Court, Bhojpur at Ara. Subsequently, the informant came to know that one Arshad Hussain alias Dadu, being an accused of the case, is attached to the learned Sessions Judge as a Peon. He retired from service about two years back, but till date he is very close to the learned Sessions Judge.

4. It is also stated by the petitioner that one Sagir Ahmad was the Bench Clerk, attached to the learned Sessions Judge and even after his retirement in the month of March, 2023, he remains in service on extension. He is the maternal uncle of Arshad Hussain alias Dadu and Anshar Ahmad, two of the accused persons of Sessions Trial No. 137 of 2001.

5. It is also alleged by the petitioner / informant that prosecution filed an application under Section 311 of the Cr.P.C., praying for examination of one of the eye-witness, namely, Faiz Ahmad. However, the prayer made by the



prosecution was rejected by the learned Sessions Judge. The prosecution filed a revision against the said order before this Court, which was registered as Cr. Misc. No. 60446 of 2023.

6. Thus, the petitioner / informant apprehends that due to undue influence exerted by the said Arshad Hussain and Sagir Ahmad upon the learned Sessions Judge, Bhojpur at Ara, there is every possibility that the petitioner may not get justice from the Court of learned Sessions Judge, Bhojpur at Ara.

7. So is the instant application for transfer.

8. It appears from the record that the informant previously filed similar petition, which was registered as Cr. Misc. No. 78798 of 2023 and the said application was dismissed by a Co-ordinate Bench of this Court.

9. The case fixed at the stage of delivery of judgement. Argument for the parties has been concluded. The case is being heard by one of the senior most Judicial Officers of the district judiciary. This Court is not ready to accept that a Sessions Judge would be influenced by his retired Peon and Bench Clerk.

10. I have already recorded that by an elaborate order, a Co-ordinate Bench of this Court has dismissed the similar prayer made by the informant.



11. It is found from the record, being Annexure-4, that the Bench Clerk submitted an affidavit, stating, *inter alia*, that he is not anyway connected with any of the accused persons.

12. In view of such affidavit, the contention of the informant is treated to be not proved.

13. For the reasons stated above, I do not find any merit in the instant Miscellaneous Case and accordingly, the instant case is dismissed on contest.

(Bibek Chaudhuri, J)

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