

**16.05.2024**  
**Serial no. 21-23**  
[G.S.D]

**CRR 500 of 2024**  
*With*  
**CRR 501 of 2024**  
*With*  
**CRR 534 of 2024**

**In the matter of : Mrs. Ann K. Augustine**  
... .. Petitioner

Mr. Prabir Kr. Mitra  
Mr. Pinak Kumar Mitra  
Ms. Subhanwita Ghosh

... for the petitioner

Md. Wasim Akram  
Mr. Hamidul Hoque

... for the respondent no.2

Mr. Debasish Roy  
Mr. Arijit Ganguly

... for the State in CRR 500 of 2024

Mr. Debasish Roy  
Mr. Arijit Ganguly  
Ms. Rita Dutta

... for the State in CRR 501 of 2024

Mr. Debasish Roy  
Mr. Arijit Ganguly  
Mr. Mirza Firoj Ahmed Begg

... for the State in CRR 534 of 2024

**CRR 500 of 2024**

The present revisional application has been preferred  
for transfer of the case being Shibpur P.S. Case No. 232 of  
2000 dt. 20.11.2000 pending before the Id. JM, 4<sup>th</sup> Court,  
Howrah.

Mr. Mitra, Id. advocate for the petitioner, submits that, at present, he do not intend to pursue the prayer for transfer. However, he expresses his grievance regarding recording of evidence in the court as well as the proceedings which were drawn by the Id. Magistrate because of the approach and attitude shown by the petitioner under the provisions of Section 180 and Section 228 of the IPC.

So far as recording of the evidence in connection with the instant case being Shibpur P.S. Case No. 232 of 2000 is concerned, which is in progress, I direct that the petitioner, if, she is dissatisfied with the evidence being recorded in a manner, wherein there are certain incorrect insertions or omissions, she would instruct her advocate or the Id. Public Prosecutor to invoke the provisions of Section 278 of the cr.p.c., which the Id. Magistrate by way of Memorandum record the objection as is incorporated under sub-section (2) of Section 278 of the cr.p.c.

It would be the discretion of the court to consider the same at the stage of final arguments of the case regarding the omissions or incorrectness which has been pointed out by the petitioner prior to signing the evidence so recorded.

The petitioner is an aged lady and is heard of hearing.

Considering the same, I direct that the provisions under section 188 and Section 228 of the IPC against the petitioner be deemed to be quashed.

However, the petitioner would deposit a cost of Rs.1,000/- for her approach, attitude and behavior in the court. So far as the timings of the court are concerned, for the purpose of the present case, if the presence of the petitioner is required, the Id. Magistrate, in seisin of the matter, would accommodate her so that she is available at around 11.30 am on the date so fixed.

The earlier direction of this court will continue and the Id. Magistrate, as directed earlier, would proceed and progress with the case and take the same to its logical conclusion.

With the aforesaid observations, CRR 500 of 2024 is disposed of.

Pending application, if any, is also disposed of.

#### **CRR 501 of 2024**

The present revisional application has been preferred for transfer of the case being Jagacha P.S. Case No. 116 of 2000 dt. 20.11.2000 pending before the Id. JM, 4<sup>th</sup> Court, Howrah.

Mr. Mitra, Id. advocate for the petitioner, submits that, at present, he does not intend to pursue the prayer for

transfer. However, he expresses his grievance regarding recording of evidence in the court as well as the proceedings which were drawn by the Id. Magistrate because of the approach and attitude shown by the petitioner under the provisions of Section 180 and Section 228 of the IPC.

So far as recording of the evidence in connection with the instant case being Jagacha P.S. Case No. 116 of 2000 is concerned, which is in progress, I direct that the petitioner, if, she is dissatisfied with the evidence being recorded in a manner, wherein there are certain incorrect insertions or omissions, she would instruct her advocate or the Id. Public Prosecutor to invoke the provisions of Section 278 of the cr.p.c., which the Id. Magistrate by way of Memorandum record the objection as is incorporated under sub-section (2) of Section 278 of the cr.p.c.

It would be the discretion of the court to consider the same at the stage of final arguments of the case regarding the omissions or incorrectness which has been pointed out by the petitioner prior to signing the evidence so recorded.

The petitioner is an aged lady and is heard of hearing.

Considering the same, I direct that the provisions under section 188 and Section 228 of the IPC against the petitioner be deemed to be quashed.

However, the petitioner would deposit a cost of Rs.1,000/- for her approach, attitude and behavior in the court. So far as the timings of the court are concerned, for the purpose of the present case, if the presence of the petitioner is required, the Id. Magistrate, in seisin of the matter, would accommodate her so that she is available at around 11.30 am on the date so fixed.

The earlier direction of this court will continue and the Id. Magistrate, as directed earlier, would proceed and progress with the case and take the same to its logical conclusion.

With the aforesaid observations, CRR 501 of 2024 is disposed of.

Pending application, if any, is also disposed of.

#### **CRR 534 of 2024**

The petitioner has prayed for transfer of the present case being Jagacha P.S. Case No. 115 of 2000 which was registered for investigation and charge-sheet was submitted under sections 341/343/506/34 of the IPC, which is pending before the Id. JM, 4<sup>th</sup> Court, Howrah.

The attention of the court is drawn to the order dated 20.12.2023, wherein an application under section 205 and Section 317 of the cr.p.c. of the petitioner has been rejected.

Having regard to the nature of the offence complained of, I am of the view that if the petitioner takes out an application under section 205 of the cr.p.c., the Id. Magistrate would consider the same, if the compliances in respect of the requirements of the sections are satisfied.

According to the proposition of law as laid down by the Hon'ble Supreme Court, she would definitely give an undertaking to the extent that she will not challenge her identity and will not take up the issue before any higher forum that if the evidence is recorded in her absence, she has been prejudiced because of her non-appearance.

Obviously, the Id. Magistrate will exercise his/her discretion that whenever she is called before the court, she would make herself available. In case, the petitioner is directed to appear before the court, she would appear as directed in other proceedings at 11.30 am considering her age and associated problems.

So far as the earlier directions of this court are concerned, in the present proceedings, the same would be followed by the Id. JM and the trial be taken to its logical conclusion within a reasonable period of time.

With the aforesaid observations, CRR 534 of 2024 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.)**