

D/L78
28.03.2024
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C.R.R.567 of 2023

In Re: An application under Section 482 read with 401 of the Code of Criminal Procedure, 1973;

Sukhendu Ghosh
Versus
State of West Bengal and another

Mr. Anirban Mitra
Mr. Amit Halder.
...for the petitioner.

Ms. Faria Hossain
Mr. Anand Keshari.
...for the State.

In connection with Cyber Crime Police Station Case No. 32 of 2021 dated 06.08.2021 the investigation has been concluded and charge-sheet has been submitted and the said case is pending before the learned CJM, Malda.

The main thrust of contention of the petitioner is that on the selfsame set of allegations, another case being Complaint Case No.385 C/2019 is pending before the learned Judicial Magistrate, 2nd Court, Malda.

Having considered that both the proceedings have the allegations of Section 498A of the Indian Penal Code and other allied Sections, I am of the view that both the cases must be tried by one and the same court. Section 210 of the Code of Criminal Procedure gives an indication to that effect.

Accordingly, I direct that both the cases be tried either by the learned CJM, Malda or by the learned Judicial Magistrate, 2nd Court, Malda and it would be the exclusive discretion of the learned

CJM, Malda either to call for the records of the complaint case being 385C/2019 from the court of the learned Judicial Magistrate, 2nd Court, Malda or send/transmit the records to the learned Judicial Magistrate, 2nd Court, Malda. It is reiterated that one and the same court should try both the cases one after other. If the petitioner has been granted bail in connection with Cyber Police Station Case No.32 of 2021 and the learned CJM, Malda finds that his regular appearance may not be required for the progress of the case and if an application under Section 205 of the Code of Criminal Procedure is filed with proper undertaking, learned Magistrate after considering the distance involved will allow the same but will not be lenient that the same is a ploy for delaying the proceedings.

With the aforesaid observations, CRR 567 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

(Tirthankar Ghosh, J.)