

22.06.2026
Item No.8
Ct. No. 34
nb

CRR 1902 of 2024

In the matter of: **Deepjeet Sen**

..... Petitioner.

Mr. Shibaji Kumar Das,
Mr. Dipendu Sarkar,

....For the Petitioner.

1. None appears on behalf of the opposite party even on second call.
2. The order transpires that the learned advocate prayed for accommodation to file the affidavit-in-opposition to the Supplementary Affidavit filed by the petitioner before this Court on June 9, 2026 and the matter was fixed under the heading "For Orders" on June 16, 2026. On the next date, on behalf of the opposite party no.2 further prayed for time and accordingly time was extended to file the affidavit-in-opposition and to serve copy of the same to the learned advocate representing the petitioner and in the order, the matter was fixed under the heading "For Order". Before this Court, neither the affidavit-in-opposition has been filed nor any prayer has been made for any accommodation, hence the matter is taken up for consideration in absence of opposite parties.
3. The case of the petitioner is that on the basis of the written complaint dated April 29, 2023 lodged by the opposite party no.2

Inspector-in-charge, Barasat Police Station, District 24 Parganas (North), a case was started against the present petitioner and his family members under Section 498(A)/406/34 of the Indian Penal Code, which is pending before the learned Chief Judicial Magistrate, North 24 Parganas at Barasat. The opposite party no.2 also filed a proceeding under Section 125 of the Code of Criminal Procedure against the present petitioner praying for maintenance, which is also pending before the same Court. In connection with the complaint lodged against the present petitioner under Section 498A of the Code after completion of investigation, the charge-sheet has been submitted on July 5, 2023.

4. It is further submitted by the learned counsel for the petitioner that in this case only the charge sheet has been submitted and the matter is still is pending before this Court. He also submitted that the father of the opposite party no.2 is practicing in the Court of District and Sessions Judge, 24 Parganas (North) and his uncle is also eminent senior advocate practicing in the same Court and also happen to be the council in Barasat Court and because of this reason, no advocate was willing to appear from that jurisdiction to represent the petitioner. The petitioner, therefore, had to engage an advocate from Calcutta High Court, who is now representing before the learned Court on behalf of the petitioner.

5. It is further submitted that in terms of the direction of this Court at the time of admission, he substantiated the difficulties faced by him

regularly in the said Court and he has very much apprehensive not getting free and fair trial, which is an integral part of guaranteed under Article 21 of the Constitution of India. By way of affidavit, it is specifically averred that each and every date, learned advocate for the Barasat Court are appearing on behalf of the opposite party no.2 along with father and uncle creating uncomfortable atmosphere within the Court at the time of calling the matter and causing hindrances in making submission by the learned counsel representing the petitioner before this learned Court.

6. It is further submitted by the present petitioner, who is a resident of South 24 Parganas and the opposite party no.2 is a resident of Barasat Jurisdiction. Accordingly, it is prayed to ensure free and fair justice to the petitioner and the said proceeding should be transferred before any Court other than the Barasat Court subject to convenience of the opposite party no.2.

7. In order to substantiate the free and fair control is an integral part guaranteed under the Constitution and the Court must look into that aspect of the matter by dealing with transfer application, learned counsel on behalf of the petitioner relied upon the decision of *Salil Dutta Vs. Sajal Kumar Bhowmick* reported in 2000 SC OnLine Cal 389 and in the case of *Rajiv Ranjan Singh Vs. State of Bihar & Ors.* reported in (2010) 15 SCC 440.

8. Having heard the submission of the learned counsel for the petitioner and on careful perusal of materials on record, it transpires that the proceedings, which was initiated on the basis of the complaint lodged on April 29, 2023 and the charge-sheet have been submitted in that case, the opposite party no.2 deprived an opportunity to not controvert the allegations assailed by way of filing revisional application. Despite giving liberty to file affidavit in opposition to controvert the same, neither such affidavit in opposition has been filed even after the time was extended nor appeared before the Court and the matter was fixed under the heading "For Orders".

9. It is the settled proposition of law that while dealing with the case under Section it is to be considered on the facts and circumstances of each case, considering the findings of the purpose as well as to ensure free and fair trial in favour of the parties.

10. In this case, at the time of admission of the proceedings, the Co-ordinate Bench observed that apparently it is an mere apprehension as has been caused by the petitioner however, in the ends of justice, direction was given to file affidavit in opposition regarding the harassment faced by him in the Court, in compliance to the same, the Supplementary Affidavit was filed expressing certain instances as well as the situations faced by the petitioner, at the time when the matter was being taken up for hearing. The said allegation remained un-

controverted because of not challenge before the Court either by way of filing affidavit in opposition or by making oral submission.

11. This Court, therefore, cannot be oblivion of the fact that the instances narrated in the case and the person described herein being influential, there is every possibility of not having free and fair trial in this case.

12. The decision as relied upon before this Court in *Salil Dutta (supra)* similar situation arose, however, there are specific order-sheets were found, where the learned Court was satisfied by virtue of not getting legal assistance by the petitioner, which is distinguishable in the present case, since, the opposite party no.2 is being represented by an advocate not from the Barasat Bar Association.

13. In another case, *Rajiv Ranjan Singh (supra)*, also there was specific resolution like withdrawal who were not willing to appear on behalf of the petitioner and in the facts and circumstances, is not hearing the case also on considering the trials on the part of the opposite party controverting the allegations, which has been made on affidavit before this Court, this Court is inclined to allow the prayer. Since the opposite party no.2 is a resident of Barasat jurisdiction, it would be evident from both the parties after the matter can be transferred before the A.C.J.M., Sealdah probably from the Court of C.J.M., Barasat, North 24 Parganas.

14. Accordingly, the present revisional application under Section 407 readwith Section 482 of the Code of Criminal Procedure is hereby allowed and the instant proceeding being, Barasat Police Station Case No.328 of 2023 dated 29th April, 2023 with the charge-sheet no.433 of 2023 dated 5th July, 2023 be transferred from the Court of learned Chief Judicial Magistrate, Barasat, North 24 Parganas, to the Court of learned A.C.J.M., Sealdah, 24 Parganas (South).

15. Since, it is a maintenance proceeding filed by the wife would be entitled all the necessary expenses to be borne by the husband subject to filing of the application before the learned Magistrate. It will be considered by the learned Magistrate at the time of passing of the order of interim maintenance.

16. Thus, the revisional application stands disposed of.

17. Let a copy of this order be sent to both the learned District Judges for taking appropriate steps and compliance.

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

(CHAITALI CHATTERJEE (DAS), J.)