

04 18.06.2026
SM Ct. No.42

CRR 2534 of 2017
With
CRAN 1 of 2017(Old No.CRAN 3767 of 2017)

Sudipta Kumar Roy
Vs.
The State of West Bengal & Anr.

1. When the matter is called on for hearing, there is no appearance on behalf of the petitioner. This application for transfer under Section 407/482 of the Code of Criminal Procedure, 1973 (CrPC), has been pending since 2017. Despite multiple opportunities afforded to the petitioner to prosecute this matter, he has remained persistently absent. Consequently, this Court proceeds to dispose of this application on the basis of the materials available on record.
2. The petitioner, a practicing Advocate, is an accused in G.R. Case No. 561 of 2011, arising out of Bhatar P.S. Case No. 49 of 2011, currently pending before the Learned Judicial Magistrate, 5th Court, Burdwan, for alleged offences under Sections 498A, 323, and 406 of the Indian Penal Code (IPC). The petitioner seeks a transfer of the trial to another forum, primarily contending that he is unable to secure legal representation at the local Burdwan Bar due to the alleged influence of his father-in-law. Furthermore, he alleges that an incident on 18.05.2017, which led to a

separate criminal case (Burdwan P.S. Case No. 554/2017), has rendered the Learned Trial Magistrate a "post-occurrence witness," creating an apprehension of bias. He also complains that the Trial Court made disparaging remarks regarding his decision to defend himself and his repeated representations to administrative and judicial authorities.

3. This Court has meticulously scrutinized the materials on record. The power of transfer under Section 407 of the CrPC is an extraordinary jurisdiction. The purpose of a transfer is to ensure that justice is not only done but is seen to be done. However, this power must be exercised only when there is a reasonable apprehension in the mind of the applicant that he will not receive a fair and impartial trial. A mere vague apprehension or a self-created hostile atmosphere is insufficient grounds for such an extreme measure.
4. Regarding the allegation of bias, it is a settled principle of law that a Magistrate does not become a "witness" merely because a complaint is lodged regarding an event in the courtroom or because the Magistrate witnessed a disturbance. The petitioner's conduct, as characterized by persistent representations to administrative and higher judicial authorities, appears to have contributed to the strained atmosphere in the Trial Court. It is a well-established principle of law that a party cannot create a hostile environment through their own

intemperate conduct and then cite that same environment as grounds for transfer. To allow such a plea would be to reward a litigant for undermining the decorum of the Court.

5. As for the inability to find a lawyer, the Court notes that the petitioner is himself a legal professional. While he claims he is being denied legal assistance, he has not demonstrated any overt act of obstruction by the Bar Association that would warrant the transfer of a criminal case. Judicial decorum requires that parties maintain the sanctity of the courtroom; the Learned Magistrate's observations regarding the petitioner's conduct appear to be a legitimate exercise of judicial control over the proceedings, rather than evidence of bias. The apprehension of bias must be real, objective, and founded upon reasonable grounds, rather than merely a result of the litigant's own actions.
6. A transfer of a criminal case is a serious matter that disrupts the trial and causes significant hardship to the witnesses and the complainant. The petitioner has failed to establish a reasonable apprehension that justice will not be done, nor has he demonstrated that the local atmosphere is so hostile as to preclude a fair trial. No sufficient cause has been made out to invoke the extraordinary power of transfer under Section 407 of the CrPC.

7. In view of the aforesaid discussion, the instant application, C.R.R. No. 2534 of 2017, is hereby dismissed.
8. The connected application, CRAN 1 of 2017, is disposed of accordingly.
9. The Learned Judicial Magistrate, 5th Court, Burdwan, is directed to proceed with the trial of G.R. Case No. 561 of 2011 in accordance with the law and conclude the same with due expedition, ensuring that the rights of the accused are protected while maintaining the decorum of the court.
10. There is no order as to costs.
11. Interim order/s, if any, is/are hereby vacated.
12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
13. Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Uday Kumar, J.)