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ss 18.06.2026

CRR 3450 of 2017
With
CRAN 1 of 2019 (Old CRAN 5047 of 2019)

Smt. Malati Malik
Vs.
The State of West Bengal & Ors.

1. When the matter is called on for hearing, there is no appearance on behalf of the petitioner.
2. This application under section 407 of the Cr.P.C. seeking the transfer of Special Case No. 7 of 2016 arising out of Dhaniakhali P.S. Case No. 142 of 2012 has been pending before this Court for over nine years.
3. Despite sufficient opportunity granted to the petitioner to prosecute the application, she has remained persistently absent. Consequently, this Court proceeds to dispose of the matter on its merits based on the materials available on record.
4. The petitioner, an Assistant Teacher, is the complainant in a case initiated under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The case is currently pending before the Learned Additional Sessions Judge, 1st Court, Hooghly. The petitioner seeks to transfer the case to another district or to Kolkata, primarily alleging that the appointed Public Prosecutor has political connections and is not conducting the case to her satisfaction, and that there has been a failure to comply with procedural mandates under Rules 7, 8, 9, and 10 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, during the investigation and trial.

5. The power of transfer under Section 407 of the Cr.P.C. is an extraordinary judicial power. It is a settled principle of law that the mere apprehension of a party is insufficient for the transfer of a case. There must be a reasonable apprehension that justice will not be done, and a transfer is only granted when it is expedient for the ends of justice or when a fair trial is otherwise impossible.
6. The grounds raised by the petitioner regarding her dissatisfaction with the Public Prosecutor do not constitute valid legal grounds for transferring a criminal case. The appointment of Public Prosecutors is governed by the Code of Criminal Procedure and the discretion of the State. A litigant's subjective dissatisfaction with a prosecutor is not a ground to disrupt a trial, especially since the petitioner admits that her previous request for a change of the Assistant Public Prosecutor was honored by the authorities, demonstrating that the grievance redressal mechanism is already functional.
7. Regarding the alleged non-compliance with the procedural provisions of the SC and ST Act, these are issues that the Trial Court is mandated to address during the trial. The High Court, in its revisional or transfer jurisdiction, cannot bypass the trial process and transfer a case simply because the complainant believes the investigation was flawed. If there are procedural irregularities, the petitioner must raise these points before the Trial Court at the appropriate stage of the proceedings. The petitioner has failed to make out a case that the Learned Additional Sessions Judge, 1st Court, Hooghly, is biased or incapable of conducting a fair trial. The allegations are vague,

speculative, and do not meet the high threshold required for a transfer under Section 407 of the Cr.P.C.

8. In view of the above discussion, the instant application, C.R.R. No. 3450 of 2017, along with the connected application, CRAN 1 of 2019, are hereby dismissed.
9. The Learned Additional Sessions Judge, 1st Court, Hooghly, is directed to continue the trial of Special Case No. 7 of 2016 in accordance with the law, ensuring that the mandates of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and the relevant rules are strictly followed.
 1. Interim order, if subsisting, stands vacated.
 2. Photostat copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)