

Indranil Mukherjee Vs State Of West Bengal & Anr

Court: Calcutta High Court

Date of Decision: Aug. 1, 2019

Acts Referred: Code Of Criminal Procedure, 1973 " Section 173(8), 407, 482
Indian Penal Code, 1860 " Section 34, 307, 325, 384, 406, 498A

Hon'ble Judges: Subhasis Dasgupta, J

Bench: Single Bench

Advocate: Ayan Bhattacharjee, Anjan Datta, Anupan Bhattacharjee, Tapas Kumr Mondal, Anirban Dey, Binoy Kumar Panda, Puspita Saha

Final Decision: Disposed Of

Judgement

Subhasis Dasgupta, J

This is an application under Section 407 read with Section 482 of the Code of Criminal Procedure, praying for transfer of Criminal Revision No. 94 of

2018, now pending before the court of learned Additional District Judge, 5th Court, Barasat, North 24-Parganas to High Court where CRR 757 of

2018 is pending for decision.

The opposite party No.2 submitted First Information Report at Bidhannagar South Police Station, alleging offence, specifically spelt out in the FIR

under Section 498A/406/384/325/307/34 of IPC. Police took up investigation and ultimately submitted charge sheet making out prime facie case under

Section 498A/406/384/325/34 of IPC but dropping Section 307 IPC from the charge sheet. De-facto complainant/opposite party No.2 felt aggrieved

with the deletion of Section 307 IPC, and the manner in which the investigation was undertaken, and accordingly submitted an application under

Section 173(8) Cr.P.C. for further investigation.

The petitioner herein conceding to the prayer for further investigation submitted a similar prayer. The court below by order dated 3rd April, 2018,

rejected the prayer under Section 173(8) Cr.P.C.

De-facto complainant/opposite party No.2 being aggrieved by and dissatisfied with the order dated 3rd April, 2018, passed by the Judicial Magistrate,

Bidhannagar, moved a Criminal Revisional Application before the Learned Sessions Judge in connection with the Criminal Revision No. 94 of 2018,

now pending before the Learned Additional District Judge, 5th Court, Barasat, North 24-Parganas.

Against the same common order dated 3rd April, 2018, the revisionist/petitioner moved a separate Revisional Application in connection with C.R.R.

No. 757 of 2018 before this court, and the same is pending for decision.

Learned advocate for the petitioner in support of prayer for transfer submitted that when there had been two separate Criminal Revisional

Applications filed by two separate parties arising out of same common order originating from a self same case, one pending at learned Additional

District Judge, 5th Court, Barasat, and the another at High Court, in order to prevent conflicting decision and multiplicity of proceedings, it is expedient

for the justice to hear both the Criminal Revisional Application together by High Court, after allowing transfer of pending revisional case from the court

of learned Additional District Judge, 5th Court, Barasat to this court (High Court).

Learned advocate for the State/opposite party submitted that in the interest of saving conflicting decisions, necessary order could be recorded for the

ends of justice.

Learned advocate for the opposite party No.2, in reply, submitted that the pending Revisional Application filed by the petitioner before the High Court

in connection with C.R.R. No. 757 of 2018 could be well withdrawn by the petitioner with liberty to file the same before the learned Sessions Judge,

Barasat, so that both the cases could be heard together.

The only point requires address by this court is whether the proposed transfer is permissible or not.

Admittedly, Criminal Revisional Application No. 94 of 2018 was filed at the instance of the de-facto complainant/opposite party No.2, now pending

before the learned Additional District Judge, 5th Court, Barasat, wherein the order dated 3rd April, 2018 passed by learned Judicial Magistrate in G.R.

Case No. 610 of 2015, rejecting the prayer for further investigation under Section 173(8) Cr. P.C. is under challenge. Surprisingly,

petitioner/revisionist, who conceded earlier to the prayer of de-facto complainant under Section 173(8) of Cr.P.C. could not be impleaded therein as one

of the parties in Criminal Revisional Application No. 94 of 2018.

Upon consideration of the rival submission raised by the parties, the court of the view that the possibility of conflicting decision to come and the

chance of occasioning multiplicity of proceedings cannot be eliminated in the given set of facts.

In that view of the matter, it is expedient for the ends of justice to allow transfer of the pending Revisional Application being No. 94 of 2018, now

pending before the learned Additional District Judge, 5th Court, Barasat, to be heard together with C.R.R No. 757 of 2018, now pending at High

Court.

The C.R.R. being No. 3501 of 2018 deserves success.

Criminal Revisional Application No. 94 of 2018 now pending before the learned Additional District Judge, 5th Court, Barasat, North 24-Parganas be

allowed to be transferred to this court for hearing together with pending C.R.R. No. 757 of 2018 of High Court.

Learned Additional District Judge, 5th Court, Barasat, North 24-Parganas, is as such directed to transfer the case record of Criminal Revisional

Application No.94 of 2018 to the High Court expeditiously in accordance with provisions of law.

With this observation and direction, the Criminal Revisional Application No. 3501 of 2018 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with all

necessary formalities.