

Criminal Revisional
PRESENT: The Hon'ble Justice Ashim Kumar Roy
Judgment On : 08-02-2010.
C.R.R. No. 134 of 2010
Manorath Rang
versus
The State Of West Bengal

Point:

Transfer: Accused whether pray for transfer of the case as the court is lying vacant- Code of Criminal Procedure, 1973-S.407

Fact: The petitioner, who has been facing a custody trial relating to offences punishable under Sections 366/376/120B of the Indian Penal Code before the Learned Additional Sessions Judge has moved this application for transfer of his trial to some other Court on the ground that the Court concerned is lying vacant.

Held: The right to speedy trial is a fundamental right of an accused guaranteed under Article 21 of the Constitution and such right become more strengthens, when an accused is facing a custody trial. This is a fit case where the trial be transferred to some other Court, which is at the present moment functioning.

(Paragraph – 3)

For Petitioner : Mr. Ratan Das

For State : Mr. Swapan Kumar Mullick

The Court:

1. The petitioner, who has been facing a custody trial along with three others relating to offences punishable under Sections 366/376/120B of the Indian Penal Code before the Learned Additional Sessions Judge, 16th Court, Alipore, has moved this application for transfer of his trial to some other Court on the ground the Court concerned is lying vacant.

2. It was submitted by the Learned Counsel of the petitioner that his client was in jail for the last four years and in this case the examination of all the prosecution witnesses has been completed except the Investigating Officer of the case.

It may be noted in connection with this case a report was called for from the Learned Registrar (Judicial Service). It appears from the said report that the concerned Court is lying vacant since June, 2009 and there is no chance

for filling up of the vacancy shortly.

The Learned Counsel of the State submitted that he has no objection if the trial is transferred to some other Court for early disposal.

3. The right to speedy trial is a fundamental right of an accused guaranteed under Article 21 of the Constitution and such right become more strengthens, when an accused is facing a custody trial.

In such view of the matter, I am of the opinion that this is a fit case where the trial be transferred to some other Court, which is at the present moment functioning.

Accordingly, I direct that the S.T. Case No. 2 (2) of 2007 now pending before the Learned Additional Sessions Judge, 16th Court, Alipore, be transferred
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to the Court of the Learned Sessions Judge, Alipore, and the Learned Sessions Judge, Alipore, shall have the liberty to either himself hold the trial or to transfer the said case for early disposal to any other competent Court.

It be noted that the FIR, which gave rise to the aforesaid trial was registered in the year 2006 and already all the prosecution witnesses except the Investigating Officer have been examined, thus the transferee Court must make all endeavours to conclude the trial as expeditiously as possible and preferably within four months from the next date fixed for recording of evidence.

Criminal Section is directed to deliver urgent Photostat certified copy of this Judgement to the parties, if applied for, as early as possible.

(*Ashim Kumar Roy, J.*)