

Criminal Revision

Present: **The Hon'ble Justice Ashim Kumar Roy**

Judgment On: 07-04-2010.

C.R.R. No. 928 of 2010

Smt. Runa Bala Samanta & Ors
versus
The State of West Bengal & Anr

POINTS:

ANALOGOUS TRIAL-One case pending for trial before a Court of Magistrate and other before a Sessions Court-Whether both be heard by Sessions Court- Indian Penal Code, Ss. 34/307/323/325/380/354/341/324-Code of Criminal Procedure, 1973 S.407

FACTS:

The petitioners have been facing their trial for offences punishable under Sections 341/323/325/34 of the Indian Penal Code before the Learned Judicial Magistrate, whereas the opposite party no. 2 has been facing his trial of charges under Sections 307/380/354/341/324 of the Indian Penal Code before the Learned Judge, Fast Track 2nd Court, Contai. Admittedly, the aforesaid cases are case and counter case.

In connection with the case pending before the Learned Judicial Magistrate, 3rd Court, Contai, where the opposite party no. 2 is the defacto-complainant, an application was moved on his behalf, for commitment of the said case to the Court of Sessions, where the trial against the said opposite party no. 2 is pending for analogous trial. However, the Learned Magistrate rejected such application. Against that order, the opposite party no. 2 preferred a criminal revision before the Learned Sessions Judge.

HELD:

The Court does not find any illegality ad infirmity in the order passed by the Learned Sessions Judge. When there are case and counter case and one case is pending for trial before a Court of Magistrate and other before a Sessions Court then in that case it would be expedient in the interest of justice that both the cases be tried together analogously. Accordingly, the Sessions Court is to try both the cases, the case pending before it as well as the case pending before the Learned Judicial Magistrate.

PARA---4

For Petitioners : Mr. Ambu Bindu Chakraborty

THE COURT:

1. The present petitioners have been facing their trial for offences punishable under Sections 341/323/325/34 of the Indian Penal Code before the Learned Judicial Magistrate, 3rd Court, Contai, in connection with G.R. Case No. 289 of 2006, whereas the opposite party no. 2 has been facing his trial of charges under Sections 307/380/354/341/324 of the Indian Penal Code before the Learned Judge, Fast Track 2nd Court, Contai, in connection with S.T. No. 01 (8)/2007. Admittedly, the aforesaid cases are case and counter case.

2. In connection with the case pending before the Learned Judicial Magistrate, 3rd Court, Contai, viz., G.R. Case No. 289 of 2006, where the opposite party no. 2 is the defacto-complainant, an application was moved on his behalf, for commitment of the said case to the Court of Sessions, where the trial against the said opposite party no. 2 is pending for analogous trial. However, the Learned Magistrate rejected such application. Against that order, the opposite party no. 2 preferred a criminal revision before the Learned Sessions Judge, Purba Medinipur, when the Learned Judge allowed such application and directed that the G.R. Case No. 289 of 2006 which was pending

before the Learned Judicial Magistrate, 3rd Court, Contai, be committed to the Court of Sessions for passing appropriate order.

3. Heard Mr. Ambu Bindu Chakraborty, Learned Counsel appearing on behalf of the petitioners.

Perused the materials on record.

4. Having considered the impugned order and other materials on record, I do not find any illegality ad infirmity in the order passed by the Learned Sessions Judge. When there are case and counter case and one case is pending for trial before a Court of Magistrate and other before a Sessions Court, then in that case it would be expedient in the interest of justice that both the cases be tried together analogously. Accordingly, the Sessions Court is to try both the cases, the case pending before it as well as the case pending before the Learned Judicial Magistrate.

5. I do not find any merit in this application and accordingly stands dismissed. Interim order, if any, stands vacated.

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

(Ashim Kumar Roy, J.)