

Criminal Revision

PRESENT: The Hon'ble Justice Ashim Kumar Roy

Judgment On: 01-02-2010.

C.R.R. No. 107 of 2010

Sri Pulak Banik

versus

The State of West Bengal

.

Point:

Transfer: If the court is lying vacant whether case be transferred – Code of Criminal Procedure, 1973- S. 407

Fact: Invoking Section 407 of the Code of Criminal Procedure the petitioner, who has been facing a custody trial before the Ld. Additional Sessions Judge of a charge relating to an offence punishable under Sections 489B/489C of the Indian Penal Code, has filed the Revisional application for transfer of the said case on the ground that the Trial Court is lying vacant.

Held: The right to speedy trial is a fundamental right of an accused guaranteed under Article 21 of the Constitution and there is no scope to deny such right. (Paragraph – 2)

For Petitioner: Mr. Sanjay Chakrabarti

For State: Mr. Ranjan Roy

The Court: 1. Invoking Section 407 of the Code of Criminal Procedure the petitioner, who

has been facing a custody trial before the Learned Additional Sessions Judge, 2nd Fast Track Court, Bichar Bhawan, Calcutta of a charge relating to an offence punishable under Sections 489B/489C of the Indian Penal Code, has moved this Court for transfer of the said case on the ground the Trial Court is lying vacant. This Court called for a report from the Learned Registrar (Judicial Service) and it appears from the said report that the concerned Trial Court is still lying vacant.

2. This is a case where the petitioner was arrested on September 17, 2008 and his trial was commenced on and from February 12, 2009 on framing of charge and by now 4 witnessed have been examined out of total 10 witnesses. The petitioner is in custody for about one and half years. The right to speedy trial is a fundamental right of an accused guaranteed under Article 21 of the Constitution and there is no scope to deny such right. Moreover, the present petitioner has been facing a custody trial and in jail since September 17, 2008. Thus, I am of the opinion it would be expedient in the interest of justice that the Sessions Trial in question be transferred to the Court of the Learned Chief Judge, City Sessions Court, Bichar Bhawan, Calcutta, and the Learned Chief Judge shall have the liberty to either hold the trial by herself or to transfer the same to any other competent Court for trial. the Learned Transferee Court is directed to proceed with the trial on a continuous basis and strictly in terms of the provisions of Section 309 of the Code of Criminal Procedure and not to grant any unnecessary adjournment to either of the parties unless the Court finds the same is necessary for ends of justice.

This Criminal Revision, thus, stands disposed of.

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.)