

CRIMINAL REVISION

Judgement On: June 14, 2010.

**C.R. R. No. 3724 of 2009**

Present : The Hon'ble Mr. Justice **Prasenjit Mandal**  
**Nasim Ahmed @ Sagar.**  
**Versus**  
**State of West Bengal & Anr.**

**POINTS**

Transfer of Cases – Whether a case can be transferred on the ground that both parties are residing at the jurisdiction of a different court – Code of Criminal Procedure, 1973 S 407 & S 482.

**FACTS**

Petitioner is the permanent resident at Sayed Kulut under P.S. Bharatpur, District – Murshidabad and the opposite party no.2 is also a resident of village Purbagram, P.S. Salar, District – Murshidabad. But the opposite party no.2 filed the said misc. case before the Court of the learned A.C.J.M., Chandannagore, District – Hooghly for claiming maintenance. As to the cause of filing the said misc.case at Chandannagore the opposite party no.2 stated, inter alia, that at present she has been residing at Gondalpara under P.S. Chandannagore, District – Hooghly. So, it will be difficult for her to attend the Court at Kandi, Murshidabad. In fact, she is doing her her job as a para-teacher in the District of Murshidabad and she has been attending her school from her paternal house situated within the police station of Bharatpur, District – Murshidabad.

**HELD**

Since both parties are residing within the jurisdiction of the Kandi sub-Division. It will be proper that the case shall be tried in the Court of the learned A.C.J.M., Kandi, District – Murshidabad. Para 3

For the petitioner: Mr. Navnil De.

For the State : Mr. Debabrata Roy,  
Mrs. Karabi Ray,  
Mr. Bikash Ch. Halder.

**Prasenjit Mandal, J.:**

**THE COURT:1)** This is an application under Section 407 read with Section 482 of the Code of Criminal Procedure, 1973 praying for transfer of a Misc. Case bearing No.159 of 2007 under Section 125 of the Cr.P.C. pending before the learned Additional Chief Judicial Magistrate at Chandannagore to the Court of the learned Additional Chief Judicial Magistrate at Kandi, Murshidabad.

2)The grievance of the petitioner is that he is a permanent resident at Sayed Kulut under P.S. Bharatpur, District – Murshidabad and the opposite party no.2 is also a resident of village Purbagram, P.S. Salar, District – Murshidabad. But the opposite party no.2 filed the said misc. case before the Court of the learned A.C.J.M., Chandannagore, District – Hooghly for claiming maintenance. As to the cause of filing the said misc. case at Chandannagore the opposite party no.2 stated, inter alia, that at present she has been residing at Gondalpara under P.S. Chandannagore, District – Hooghly. So, it will be difficult for her to attend the Court at Kandi, Murshidabad.

3)The learned Advocate for the petitioner has submitted that though the opposite party no.1 has stated that she has been residing at Gondalpara under P.S. Chandannagore, in fact, she is doing her her job as a para-teacher in the District of Murshidabad and she has been attending her school from her paternal house situated within the police station of Bharatpur, District – Murshidabad. Such contention of the petitioner has not been controverted by the opposite party. Therefore, I do not find any reason to reject the prayer of the petitioner. Since both parties are residing within the jurisdiction of the Kandi sub-Division. It will be proper that the case shall be tried in the Court of the learned A.C.J.M., Kandi, District – Murshidabad. Accordingly, the M.

C. Case No.159 of 2007 pending in the Court of learned Additional Chief Judicial Magistrate, Chandannagore, Dist. Hooghly stands withdrawn and the same is transferred to the judgeship of District-Murshidabad. The learned A.C.J.M., Chandannagore shall send the said record along with connected papers to the learned District Judge, Murshidabad within 10 days from the date of communication, and, then the learned District Judge, Murshidabad shall transfer the same to the sub-Division of Kandi, District- Murshidabad for trial by a learned Magistrate thereat to be nominated by the learned District Judge, Murshidabad.

4)The learned District Judge, Murshidabad shall exercise such power within seven days from the date of receipt of the record from the Court of the learned A.C.J.M., Chandannagore, Hooghly.

5)This application disposed of with the above orders.

6)Considering the circumstances, there will be no order as to costs.

7)Urgent xerox certified copy of this order, if applied for, be supplied to the learned Advocates for the parties on their usual undertaking.

**(Prasenjit Mandal, J.)**