

07
NB

18.05.2022
Ct. No. 39

CRR 1086 of 2022
CRAN 1 of 2022

In the matter of:- Dr. Nirmal Maji

...petitioner

Mr. Biplab Ghosh,
Mr. S. Bhowmick,
Mr. Avik Ghatak,
Mr. Soham De Dhara,
Mr. Fahad Imam.

....for the petitioner.

Mr. Saswata Gopal Mukherjee Ld. PP,
Mr. Imran Ali,
Ms. Debjani Sahu.

...for the State.

Mr. Saikat Banerjee

...for the High Court Administration.

Leave is granted to add the Registrar, Judicial Service, High Court, Calcutta as a party in this case.

A copy of the application may be served upon Mr. Saikat Banerjee, learned Counsel who ordinarily appears on behalf of the High Court Administration. He is requested to appear in this case.

Learned Counsel appearing on behalf of the petitioner submits as follows. Referring to the order dated 24.11.2021 passed by the Hon'ble Apex Court in WP (Civil) No. 699/2016, it is submitted that if a case involving an MP or an MLA is triable by a learned Judicial Magistrate, then it should not be transferred to the learned Sessions Court merely because the latter is a Special Court for trying cases of MLAs and MPs in a particular district. The present case, although triable by a learned Judicial Magistrate, is pending before the learned Special Court, which is a Court of Sessions. Therefore, the proceeding cannot be continued there.

Learned Counsel appearing on behalf of the State submits as follows. The question of whether Special Courts of Judicial Magistrates

could be set up in the State for trying cases involving MPs and MLAs is under consideration in a proceeding before a Division Bench of this Court presided over by the Hon'ble Chief Justice in WPA 7807 of 2020. In fact, the matter is running in the list.

The opposite party no.1, appearing in person, submits as follows. The direction passed by the Hon'ble Apex Court on 24.11.2021 does not necessarily require that a Magistrate triable case, which is already pending before a Special Court of a Sessions Judge, be transferred back to a Magistrate's Court, whether the same is designated as a Special Court for such purpose or not. The next date fixed for hearing before the learned Trial Court for cross-examination of the complainant is on 4th June, 2022.

As the petitioner has made out an arguable case, the same needs to be heard at length.

The opposite party no.1 shall be at liberty to file an opposition in respect of the present application within 10 days from this date. Reply, if any, shall be filed within a week therefrom.

Let this matter appear for hearing under the same heading 'To Be Mentioned' on 10th June, 2022.

The impugned proceeding shall remain stayed till that date.

Parties shall act on a server copy of this order downloaded from the official website of this Court.

Parties shall be at liberty to communicate a gist of this order before the learned Trial Court on the next date of hearing.

(Jay Sengupta, J.)