

Criminal Revision No. 25/2020
CBI VS. ASHWANI SHARMA

24.07.2020

Present: None.

Due to poor Wi-Fi connectivity, proceedings in the matter could not take place through VC and the matter is taken up through tele-conference and, as per the status report provided by the Reader of this Court, the directions are being issued.

Ld. Counsel for the respondent/accused has sent a request that he may be provided the soft copy of the revision for addressing the arguments through VC and file written submissions.

Accordingly, CBI is directed to provide the soft copy of the revision to the Ld. Counsel for the respondent/accused.

List on 07.08.2020 at 02:30 PM.

Copy of this order be annexed with notices/summons. A copy of this order be also sent to the Computer Branch for uploading on the official website.

(SUJATA KOHLI)

District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/24.07.2020

Criminal Revision No. 26/2020

CBI VS. Naveen Kaushik

24.07.2020

Present: None.

Due to poor Wi-Fi connectivity, proceedings in the matter could not take place through VC and the matter is taken up through tele-conference and, as per the status report provided by the Reader of this Court, the directions are being issued.

Ld. Counsel for the respondent/accused has sent a request that he may be provided the soft copy of the revision for addressing the arguments through VC and file written submissions.

Accordingly, CBI is directed to provide the soft copy of the revision to the Ld. Counsel for the respondent/accused.

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(SUJATA KOHLI)

District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/24.07.2020

Criminal Revision No. 27/2020

CBI VS. Ashutosh Pant

24.07.2020

Present: None.

Due to poor Wi-Fi connectivity, proceedings in the matter could not take place through VC and the matter is taken up through tele-conference and, as per the status report provided by the Reader of this Court, the directions are being issued.

Ld. Counsel for the respondent/accused has sent a request that he may be provided the soft copy of the revision for addressing the arguments through VC and file written submissions.

Accordingly, CBI is directed to provide the soft copy of the revision to the Ld. Counsel for the respondent/accused.

List on 07.08.2020 at 02:30 PM.

Copy of this order be annexed with notices/summons. A copy of this order be also sent to the Computer Branch for uploading on the official website.

(SUJATA KOHLI)

District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/24.07.2020

Criminal Revision No. 24/2020
CBI Vs. Avinash Chander

24.07.2020

Present: None.

Due to poor Wi-Fi connectivity, proceedings in the matter could not take place through VC and the matter is taken up through tele-conference and, as per the status report provided by the Reader of this Court, the directions are being issued.

Ld. Counsel for the respondent has shown inability for hearing of the matter through VC on the ground that his client is not contactable and the copy of the revision is also not available with him.

Let notices be issued to Ld. Counsel for the respondent/accused as well as respondent/accused directly through holding IO for appearance through VC for a briefing session.

List on 07.08.2020 at 02:30 PM.

Copy of this order be annexed with notices/summons. A copy of this order be also sent to the Computer Branch for uploading on the official website.

(SUJATA KOHLI)

District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/24.07.2020

**Criminal Revision No. 12/2020
State Vs. Narayan Dutt Sharma**

24.07.2020

Present: None.

Due to poor Wi-Fi connectivity, proceedings in the matter could not take place through VC and the matter is taken up through tele-conference and, as per the status report provided by the Reader of this Court, the directions are being issued.

No reply has been received to the notice issued to the to the accused as well as counsel.

Let a notice of the revision be issued to the respondent/accused (through WhatsApp or email) to be served through holding IO for appearance through VC on the next date.

List on 07.08.2020 for appearance/filing of reply, if any.

A copy of this order be sent to the Computer Branch to be uploaded on the official website.

(SUJATA KOHLI)

District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/24.07.2020

Criminal Revision No. 28/2020

CBI Vs. Ajeet Singh

24.07.2020

Present: None.

Due to poor Wi-Fi connectivity, proceedings in the matter could not take place through VC and the matter is taken up through tele-conference and, as per the status report provided by the Reader of this Court, the directions are being issued.

Ld. Counsel for the revisionist has shown inability for hearing of the matter through VC.

Let notices be issued to Ld. Counsel for the respondent/accused as well as to respondent/accused directly through holding IO for appearance through VC for a briefing session.

List on 07.08.2020 at 02:30 PM.

Copy of this order be annexed with notices/summons. A copy of this order be also sent to the Computer Branch for uploading on the official website.

(SUJATA KOHLI)

District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/24.07.2020

**IN THE COURT OF MS. SUJATA KOHLI, DISTRICT & SESSIONS
JUDGE-CUM-SPECIAL JUDGE (PC ACT) (CBI), ROUSE AVENUE
COURT COMPLEX, NEW DELHI**

Criminal Case No. 15/2019

FIR No. 605/2015

PS Hauz Khas

U/s 420/467468/471/109/120-B IPC

CBI Vs. Jitender Singh Tomar and Others

24.07.2020

Present: Sh. Umesh Chander Saxena, Sr. PP for CBI/Revisionist.

Matter has been taken up through video conferencing hosted by Sh. Suneet Singh Negi, Reader of this Court, in terms of orders of Hon'ble High Court bearing No. R-235/RG/DHC/2020 dated 16.05.2020 and 16/DHC/2020 dated 13.06.2020.

Matter is listed for consideration.

I have perused the order of Ld. ACMM-01, RADDC, New Delhi, vide which he has been pleased to decide and allow a transfer application of an accused, Jitender Singh Tomar, applicant therein.

The transfer application itself had been moved on the ground of lack of jurisdiction. The applicant/accused relied on **Election Petition No. 02/2015, titled as Nand Kishore Garg Vs. Jitender Singh Tomar and Others**, wherein the Hon'ble High Court was pleased to set aside the election of the accused to the Delhi Legislative Assembly.

Considering the said order and relying thereon, Ld. ACMM-01 has been pleased to allow the transfer application of accused on the ground that since accused was no more an MLA, and that, as such his case falls out of the purview of Ld. ACMM, whose Court is designated for trial of cases against MPs/MLAs. Ld. ACMM has, as such, directed that the trial should now be conducted by the ordinary court i.e. a court

having jurisdiction over PS Hauz Khas.

Going by the orders of Hon'ble High Court in the election petition, it is true that the election of the accused had been set aside. And accordingly, the criteria for trial and disposal of the case by the Court of Ld. ACMM specially designated to try the cases of MPs/MLAs was no more subsisting. It is also correct that in view of the decision of the Hon'ble High Court, it would be the ordinary Court, which would have jurisdiction over the case i.e. concerned Court having jurisdiction of PS Hauz Khas.

However, it is strongly observed that Ld. ACMM while entertaining and deciding/allowing the application for transfer of the case, evidently overstepped his jurisdiction, under the provisions of Section 407/408 CrPC.

As per the provisions of Section 407 CrPC, if a case is to be transferred from the division of one District & Sessions Judge to the division of another District & Sessions Judge, it would be only, and only the Hon'ble High Court, which shall be empowered to entertain and decide the transfer application.

The following two provisions need to be referred as hereunder:

“407 CrPC. Power of High Court to transfer cases and appeals.

- (1) Whenever it is made to appear to the High Court-
- (a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or
 - (b) that some question of law of unusual difficulty is likely to arise, or
 - (c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice,

it may order-

(i) that any offence be inquired into or tried by any Court not qualified under sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case be committed for trial to a Court of Session; or

(iv) that any particular case or appeal be transferred to and tried before itself.

(2) The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative: Provided that no application shall lie to the High Court for transferring a case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

(3) Every application for an order under sub-section (1) shall be made by motion, which shall, except when the applicant is the Advocate-General of the State, be supported by affidavit or affirmation.

(4) When such application is made by an accused person, the High Court may direct him to execute a bond, with or without sureties, for the payment of any compensation which the High Court may award under sub-section (7).

(5) Every accused person making such application shall give to the Public Prosecutor notice in writing of the application, together with copy of the grounds on which it is made; and no order shall be made on of the merits of the application unless at least twenty-four hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where the application is for the transfer of a case or appeal from any subordinate Court, the High Court may, if it is satisfied that it is necessary so to do in the interests of justice, order that, pending the disposal of the application, the proceedings in the subordinate Court shall be stayed, on such terms as the High Court may think

fit to impose: Provided that such stay shall not affect the subordinate Court's power of remand under section 309.

(7) Where an application for an order under sub-section (1) is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider proper in the circumstances of the case.

(8) When the High Court orders under sub-section (1) that a case be transferred from any Court for trial before itself, it shall observe in such trial the same procedure which that Court would have observed if the case had not been so transferred.

(9) Nothing in this section shall be deemed to affect any order of Government under section 197."

"408 CrPC. Power of Sessions Judge to transfer cases and appeals.

(1) Whenever it is made to appear to a Sessions Judge that an order under this sub-section is expedient for the ends of justice, he may order that any particular case be transferred from one Criminal Court to another Criminal Court in his sessions division.

(2) The Sessions Judge may act either on the report of the lower Court, or on the application of a party interested, or on his own initiative.

(3) The provisions of sub-sections (3), (4), (5), (6), (7) and (9) of section 407 shall apply in relation to an application to the Sessions Judge for an order under sub-section (1) as they apply in relation to an application to the High Court for an order under subsection (1) of section 407, except that sub-section (7) of that section shall so apply as if for the words" one thousand rupees" occurring therein, the words" two hundred and fifty rupees" were substituted."

It is strongly observed herein that, Ld. ACMM was not competent to entertain and decide the transfer application of the

accused. In fact, the course to be adopted by Ld. ACMM was to have considered the application on the face of it, probably made certain observations but, thereafter, to have placed a report before this Court, instead of proceeding to entertain and decide/allow the application itself straightway.

In view of the provisions of Section 407 CrPC, referred above, let this file be placed before the Hon'ble High Court for further appropriate orders.

Ahlmad is directed to send the case file immediately to the Ld. Register General, Delhi High Court with a request to place the matter before the Hon'ble High Court for further orders.

Parties and Ld. Counsel(s) are directed to appear before the Ld. Registrar General, Delhi High Court on 31.07.2020 at 11.00 AM.

A copy of this order be sent to the Computer Branch to be uploaded on the official website. A copy of this order be also sent to the concerned Court of Sh. Vishal Pahuja, Ld. ACMM, RADC,

(SUJATA KOHLI)

District & Sessions Judge-cum-Spl. Judge
(PC Act) (CBI)/RADC/ND/24.07.2020