

(2022) 07 OHC CK 0114
In the Orissa High Court
Case No : TRP (CRL) No.46 Of 2022

Abhimanyu Mandal

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 19-07-2022

Acts Referred:

Code of Criminal Procedure, 1973 — Section 407, 407(2)

Citation : (2022) 07 OHC CK 0114

Hon'ble Judges : Savitri Ratho, J

Bench : Single Bench

Advocate : B.P.Pradhan, S.S.Pradhan

Final Decision : Disposed Of

Judgement

Savitri Ratho, J

1. This matter is taken up by hybrid mode.

2. This application has been filed by the petitioner under Section-407 of Cr.P.C. for transfer of S.T. Case No.5 of 2022 from the Court of the learned Addl. Sessions Judge, Rairangpur to the Court of learned Adhoc ADJ, Baripada in connection with S.T. Case No.141 of 2020 (Sessions Case No.197 of 2021) which is pending in the Court of learned Adhoc ADJ, Baripada as mental condition of witness in S.T. No.5 of 2022 is not stable to adduce the evidence due to continuous threat and pressure from the side of the accused persons (opp. party Nos.2 to 8).

3. It appears that the petitioner had filed CRLMC No.164 of 2022 in the Court of learned Sessions Judge, Mayurbhanj, Baripada for transfer of S.T. No.5 of 2022 from the Court of learned Addl. Sessions Judge, Rairangpur to the Court of learned Addl. Sessions Judge, Baripada. But on 30.5.2022, the said case has been dismissed as not pressed as the counsel for the petitioner filed a memo stating that the petitioner does not want to proceed with the case as charge has been framed in S.T. No.5 of 2022 before the learned ADJ., Rairangpur.

4. Sub-section (2) of Section 407 of Cr.P.C. reads as follows:-

"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."

5. CRLMC No.164 of 2022 has been dismissed as not pressed, so it cannot be said to be an order under Sub-section (2) of Section 407 of Cr.P.C. Mr. Pradhan, learned counsel for the petitioner submits that the transfer application has been withdrawn on wrong advice, for which he may be granted liberty to move the learned Sessions Judge Rairangpur afresh for transfer of S.T. No.5 of 2022.

6. Granting such liberty the TRP (CRL) is disposed of.

7. Urgent certified copy of this order be granted as per rules.

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