

(1987) 08 OHC CK 0015

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 10 of 1986

Ashok Kumar Panigrahi and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 27-08-1987

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 407, 407(1)

Citation : (1987) 64 CLT 475

Hon'ble Judges : B.K. Behera, J

Bench : Single Bench

Advocate : B.B. Ratho, R.P. Mohapatra, Manoj Mishra, Biswanath Rath, D. Biswal and A.K. Satpathy, for the Appellant; Indrajit Ray, Additional Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

B.K. Behera, J.—These matters have been heard together and will be governed by this common order. As has been submitted by the learned Counsel for both the sides, Sessions Case No. 29 of 1985 is pending in the Court of the learned Assistant Sessions Judge at Charrapur for trial and G. R. Case Nos. 402 to 404 of 1984, which are counter case, in respect of commission of offences none of which is exclusively triable by the Court of Session, are pending in the Court of the learned Sub-divisional Judicial Magistrate at Chatrapur. The Petitioners have applied to this Court for a direction that the Sessions Case and the three S. R. Cases should be tried by the same Judge before whom the Sessions Case is pending.

2. There seems to be no provision in the Code of Criminal Procedure that two cases arising out of one and the same occurrence shall be tried by the same Sessions Judge or Magistrate, but it is desirable in the interests of Justice that a case and a counter case arising out of the same Occurrence should be tried by the same Judge or Magistrate. When it appears to this Court that an order u/s 407 is required and the same will tend to the general convenience of the parties,

it would be open to this Court to make an order that any particular case be committed to the Court of Session for trial u/s 407 (I) (c) (iii) of the Code of Criminal Procedure.

3. As the Sessions Case pending in the Court of the learned Assistant Sessions Judge and the three G. R. cases referred to above which are counter cases are pending in the Court of the learned Sub-divisional Judicial Magistrate, Chatrapur. I direct the learned Sub-divisional Judicial Magistrate, Chatrapur to commit G. R. Case Nos. 402 to 404 of 1984 to the Court of Session for trial, so that these three cases may be tried along with the Sessions Case one after the other by the same learned Judge.

4. The three Criminal Miscellaneous Cases are accordingly allowed.