
(2011) 09 UK CK 0124

In the Uttarakhand High Court

Case No : Criminal Transfer Application (C-407) No. 12 of 2011

Smt. Jagri Kaur

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 407
Penal Code, 1860 (IPC) — Section 307, 323, 326, 341, 504

Citation : (2012) 1 NCC 341

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Prafulla C. Pant, J.—This case is taken up today on mention made by learned Counsel for the Petitioner and learned Counsel for the Respondent No. 2 to 5.

2. The petition u/s 407 of Code of Criminal Procedure, has been moved before this Court for transfer of Sessions Trial No. 135 of 2011, State v. Tarsem Singh and Ors. relating to offences punishable u/s 307, 323, 326, 504, 341 I.P.C., P.S. Kashipur, pending in the court of Sessions Judge, Rudrapur, District Udham Singh Nagar to the Court of Additional Sessions Judge, Kashipur, District Udham Singh Nagar.

3. Learned Counsel for the parties submitted that out of the same incident, two cross cases have arisen, and two sessions trial are pending in District - Udham Singh Nagar. One sessions trial No. 137 of 2009, State v. Dalveer Singh and Ors. relating to offences punishable u/s 323, 307, 504 I.P.C., P.S. Kashipur, is pending in the court of Additional Sessions Judge, Kashipur, while another, i.e. sessions trial No. 135 of 2011, State v. Tarsem Singh and Ors. relating to offences punishable u/s 307, 323, 326, 504, 341 I.P.C., P.S. Kashipur, pending in the court of Sessions Judge, Rudrapur, District Udham Singh Nagar.

4. It is settled principle of law that in the matters of cross cases, though no

special procedure is laid down for trial in the Code of Criminal Procedure, 1973, but as far as possible, such cases (cross cases) should be tried by one and the same court, so that it may be decided as to which of the party is aggressor. The evidence in the cross cases is required to be recorded separately in both the trials one after another and the same are required to be decided by separate judgements

5. In the above circumstances, having considered submissions of learned Counsel for the parties, the petition u/s 407 of Code of Criminal Procedure, is allowed, and sessions trial No. 135 of 2011, State v. Tarsem Singh and Ors. relating to offences punishable u/s 307, 323, 326, 504, 341 I.P.C., P.S. Kashipur, pending in the court of Sessions Judge, Rudrapur, District Udham Singh Nagar, is transferred to the court of Additional Sessions Judge, Kashipur, District Udham Singh Nagar for being tried together with Sessions Trial No. 137 of 2009, State v. Dalveer Singh and Ors. relating to offences punishable u/s 323, 307, 504 I.P.C., P.S. Kashipur, as both the parties are residents of the places near Kashipur.