

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Transfer Petition (Crl.) No. 5 of 2026

Mahesh Tewari @ Mahesh Tiwary, aged about 68 years, S/o Late Sudhanshu Shekhar Tiwari, resident of Lower Burdwan Compound, P.O. – G.P.O., P.S. – Lalpur, Ranchi, At present R/o D-4, 3-G, SAIL City, P.O. – SAIL City, P.S. – Pundag, District – Ranchi, Jharkhand, having his Chamber at 2C/60, Block-II, Jharkhand High Court.

..... **Petitioner**

Versus

1. The State of Jharkhand.
2. Ritu Kumar, W/o Sri A.K. Thakur, R/o 97, Vardaman Compound, P.O. + P.S. – Lalpur, District – Ranchi, Jharkhand.

..... **Opp. Parties**

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CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioner	: In-Person [In both cases].
For the State	: Mr. Pankaj Kumar, P.P. [In Transfer Petition (Crl) No. 05/26] Mrs. Priya Shrestha, Spl.P.P. [In Transfer Petition (Crl) No. 06/26]
For the O.P. No. 2	: Mr. Abhay Kumar Mishra, Advocate. [In both cases]

Reserved On : 03/02/2026

Pronounced On: /02/2026

1. Heard petitioner in-person, Mr. Pankaj Kumar, learned P.P. and Mrs. Priya Shrestha, learned Spl.P.P. for the State as well as Mr. Abhay Kumar Mishra, learned counsel for the opposite party no. 2.
2. Both petitioner as well as opposite party no. 2 are the practicing Advocates of Jharkhand High Court.

3. Both the transfer petitions are arising out from case and cross-case. Transfer Petition (Criminal) No. 05 of 2026 arises out from Doranda P.S. Case No. 192/2012 (Corresponding to G.R. No. 2298/2012) and Transfer Petition (Criminal) No. 06 of 2026 arises out from Doranda P.S. Case No. 191/2012 (Corresponding to G.R. No. 2297/2012).

4. The Transfer Petition (Criminal) No. 05 of 2026 has been filed under Section 447 (2) of the B.N.S.S., 2023 for quashing / setting aside the order dated 19.01.2026 passed by learned Judicial Commissioner, Ranchi in Criminal Misc. (Transfer) Petition No. 464/2025, whereby the application of the petitioner filed under Section 408 of the Cr.P.C. (Section 438/440 of B.N.S.S., 2023) for transfer of Doranda P.S. Case No. 192/2012 (Corresponding to G.R. No. 2298/2012) from the learned court of Sri Sharthak Sharma, J.M., 1st Class, XXII, Ranchi to another court of J.M., 1st Class, Ranchi under the jurisdiction of the learned Judicial Commissioner, Ranchi, has been rejected.

5. The Transfer Petition (Criminal) No. 06 of 2026 has been filed under Section 447 (2) of the B.N.S.S., 2023 for quashing / setting aside the order dated 19.01.2026 passed by learned Judicial Commissioner, Ranchi in Criminal Misc. (Transfer) Petition No. 466/2025, whereby the application of the petitioner filed under Section 408 of the Cr.P.C. (Section 438/440 of B.N.S.S., 2023) for transfer of Doranda P.S. Case No. 191/2012 (Corresponding to G.R. No. 2297/2012) from the learned court of Sri Sharthak Sharma, J.M., 1st Class, XXII, Ranchi to another court of J.M., 1st Class, Ranchi under the jurisdiction of the learned Judicial Commissioner, Ranchi, has been rejected.

6. The petitioner submits following facts to be taken into notice in connection of his prayer:-

(A) (i) Doranda P.S. Case No. 191 of 2012 corresponding to G.R. No. 2297 of 2012 was instituted for the offence under Sections 341, 323, 354, 506, 504 of the I.P.C. by opposite party no. 2 at Doranda Police Station against the present petitioner in respect

of alleged occurrence stated to have taken within premises of the Hon'ble High Court of Jharkhand in front of Court No. 5.

(ii) For the same set of occurrence, the petitioner has also instituted F.I.R. being Doranda P.S. Case No. 192 of 2012 (corresponding G.R. No. 2298 of 2012) against the opposite party no. 2 registered for the offence under Sections 341, 323, 504 & 506 of the I.P.C.

(iii) Charge sheets were submitted in above noted both cases and cognizance were also taken and used to fix both the cases on the same day for hearing and trial.

(iv) From the year 2014 onwards, both cases were being tried simultaneously and running together before the same court of Judicial Magistrate, 1st Class, Ranchi till the transfer of the then learned Judicial Magistrate, Mrs. Nutan Ekka.

(v) Both the cases were listed together up to 31.10.2025. Thereafter, both the cases were taken up for separate hearing without recording any reasons, which is mentioned below in tabular form.

Sl. No.	Doranda P.S. Case No. 191/12 (G.R. No. 2297/12)	Doranda P.S. Case No. 192/12 (G.R. No. 2298/12)
1.	31.10.2025	31.10.2025
2.	11.11.2025	22.11.2025
3.	19.11.2025	28.11.2025
4.	02.12.2025	05.12.2025
5.	06.12.2025	16.12.2025
6.	08.12.2025	18.12.2025
7.	03.01.2026	03.01.2026

(vi) Sudden separation of above two cases and their listing on different dates is wholly arbitrary, particularly in view of the fact that both the cases have been listed and heard together since 2014, including during the tenure of the learned Judicial Magistrate, Sri Sarthak Sharma. The separate hearing of the said cases was affected only after the order dated 17.10.2025 passed in Criminal Contempt Case No. 03 of 2025 by Five Judges Bench of this Hon'ble Court against the petitioner.

(vii) Opposite party no. 2 is presently functioning as a President of Advocates' Association of Jharkhand High Court, as such exercises considerable influence within the judicial circle, which is a direct bearing on the manner in which the present criminal cases are being dealt with.

(viii) The sudden separation of both the above cross / counter cases for the purpose of trial without recording any valid reasons and the consequent closure of the petitioner's case i.e. G.R. No. 2298 of 2012, in a hurried manner-particularly when on the relevant date, the petitioner could not appear to depose as P.W.-1 and without issuance of notice to the other prosecution witnesses or affording them any opportunity to appear amounts to a clear abuse of the process of the Court, thereby giving rise to a reasonable apprehension in the mind of the petitioner that he is likely to be denied justice.

(ix) Moreover, fixing of dates in G.R. No. 2297 of 2012 at very short intervals i.e. after every 3-4 days continuously after 31.10.2025, despite the fact that prior to said date, the very same learned Judicial Magistrate had been granting dates at the intervals of 10 to 15 days, is sufficient to give rise to a reasonable apprehension in the mind of the petitioner that justice is being denied.

(B) (i) The case arising out of Doranda P.S. Case No. 192 of 2012; G.R. No. 2298 of 2012 was fixed for recording of evidence of petitioner on 28.11.2025, but the petitioner was compelled to

suddenly rush to Delhi due to unavoidable circumstances and therefore, could not appear before the learned Court. The reason for absence of petitioner was duly explained to the learned Court, nevertheless the evidence of the petitioner was ordered to be closed.

(ii) Thereafter in a most hurried manner, on 05.12.2025, the statement of accused under Section 313 of Cr.P.C. (corresponding to Section 351 of B.N.S.S., 2023) was also recorded and the case was fixed for arguments without issuing any notice to the other charge-sheeted witnesses, thereby causing serious prejudice to the petitioner (Web copy of order dated 05.12.2025 is annexed as Annexure-3 to the present petition).

(iii) The series of orders passed earlier, as well as the manner in which the subsequent orders have been passed, speak for themselves and clearly reflect the manner in which the present case has proceeded.

(iv) The petitioner has also filed an application under Section 311 of the Cr.P.C. for recall of the order dated 28.11.2025 and further to allow him to be examined as a witness.

(v) The roster prescribed for disposal of cases arising out of Doranda Police Station does not fall within the roster of the learned Judicial Magistrate, Shri Sharthak Sharma, nevertheless the matter continued to remain under his jurisdiction, having been transferred to his Court from the court of learned Judicial Magistrate, Mrs. Nutan Ekka.

(vi) In the case arising out of Doranda P.S. Case No. 191 of 2012, corresponding to G.R. No. 2297 of 2012, the defense witness, Sri Sanjay Kumar Pandey, a practicing Advocate of this Hon'ble Jharkhand High Court, was fixed to appear on 28.11.2025 for his evidence, and an application was filed on his behalf seeking adjournment on the ground of illness, however, the said application was rejected and the case was fixed for arguments on 15.12.2025.

(vii) On 15.12.2025, the petitioner filed an application under Section 311 of Cr.P.C. for recall of prosecution witnesses, namely, Mrityunjay Kumar (P.W.-1) and Ritu Kumar (P.W.-3) and to the said application, objection / reply was also filed by the opposite parties.

(viii) The petitioner also intends to file an application for permitting Sri Sanjay Kumar Pandey to be examined as a defence witness, however, due to the undue haste in fixing successive dates and the manner in which the case is being hurriedly proceeded with, the petitioner has developed a reasonable and bonafide apprehension that he may not receive a fair and impartial trial before the learned Court.

In view of above facts and circumstances, the petitioner reasonably apprehends that a fair trial and judgment in accordance with law and evidence may not be rendered in the present case by the learned Judicial Magistrate, 1st Class, Sri Sarthak Sharma.

7. The petitioner appeared in-person for argument and elucidating his grounds for entertaining the transfer petition has also pointed out some relevant facts and orders.

(a) It is submitted that in the case arising out of Doranda P.S. Case No. 192 of 2012) substance of accusation were explained on 28.06.2014, wherein the accused Ritu Kumar pleaded guilty, but claimed to be tried. In spite of the plea of guilty by the accused, no order was passed. Further, on 27.08.2016, the petitioner was present to be examined as a witness, but his examination was not recorded by the court on the ground that the accused wish to cross-examine the witness herself. Accordingly, witness was returned unexamined and summons to other witnesses were re-called. On 16.09.2017 also witness was present from the side of the petitioner, but not examined at the request of defence. Thereafter, the accused was represented through his lawyer, in spite of direction of the court to be present physically. Charge of both the case and counter-case come under

learned Judicial Magistrate, 1st Class, Sri Sharthak Sharma on 10.05.2024 and till 18.09.2025, the accused was represented through lawyer. Even thereafter the accused was represented on 04.11.2025, 22.11.2025 and even on 28.11.2025 when the opportunity of leading evidence of the petitioner was closed, she deliberately appeared on 05.12.2025 and her statement under Section 313 Cr.P.C. was recorded. The petitioner also filed an application for recall of order dated 28.11.2025 under Section 311 Cr.P.C., which is pending up till now.

(b) It is submitted by the petitioner in-person, who happens to be accused in the case arising out of Doranda P.S. Case No. 191 of 2012 that substance of accusation was explained on 04.01.2014 and the case was lingered at the instance of opposite party. It appears that after taking all efforts out of six charge-sheeted witnesses, four witnesses have been examined by the prosecution and the evidence of prosecution was closed on 24.06.2024, but after recording of statement of petitioner under Section 313 Cr.P.C., the Court again given direction to the prosecution for production of Investigating Officer for his examination on the prayer of petitioner under Section 311 of the Cr.P.C. and in this regard DO Letter was also issued to the SSP, Ranchi and report of the same was not received, inspite of that the evidence was closed and statement under Section 313 of the Cr.P.C. of accused was recorded.

Therefore, the petitioner has reasonable apprehension of getting no fair and impartial trial of the case and justice by the court of Sri Sharthak Sharma, Judicial Magistrate, 1st Class.

8. It is further submitted that the learned Sessions Judge also failed to properly appreciate the genuine apprehension entertained by the petitioner for transfer of the case in the facts and circumstances as well as the manner, in which the trial is being proceeded and rejected the prayer of the petitioner for transfer of the case making illegal observation to conclude the trial within one month, which is fit to be set

aside and both these petitions may kindly be allowed and learned Judicial Commissioner, Ranchi be directed to transfer both the cases i.e. Doranda P.S. Case No. 191 of 2012, corresponding to G.R. No. 2297 of 2012 and Doranda P.S. Case No. 192 of 2012, corresponding to G.R. No. 2298 of 2012 to the court of any other Judicial Magistrate, 1st Class, so that petitioner may get justice.

9. Petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in the case of **Nathi Lal & Others v. State of U.P. & Another** reported in **1990 Supp SCC 145**. Para-2 of the said judgment reads as under:-

“2. We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both the cross cases one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the cases, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in that particular case without being influenced in any manner by the evidence or arguments urged in the cross case. But both the judgments must be pronounced by the same learned Judge one after the other.”

10. The petitioner has further relied upon the Judgment passed by Hon'ble Supreme Court of India in the case **Sudhir & Ors v. State of Madhya Pradesh** reported in **(2001) 2 SCC 688**. Para-8 of the said Judgment reads as under:

“8. It is a salutary practice, when two criminal cases relate to the same incident, they are tried and disposed of by the same court by pronouncing judgments on the same day. Such two different versions of the same incident resulting in two criminal cases are compendiously called "case and counter case" by some High Courts and "cross cases" by some other High Courts. Way back in nineteen hundred and twenties a Division Bench of the Madras

High Court (Waller, and Cornish, JJ) made a suggestion (In Re Goriparthi Krishamma - 1929 Madras Weekly Notes 881) that "a case and counter case arising out of the same affair should always, if practicable, be tried by the same court, and each party would represent themselves as having been the innocent victims of the aggression of the other."

11. The petitioner has further relied upon the Judgment passed by Hon'ble Supreme Court of India in the case **Maneka Sanjay Gandhi v. Rani Jethmalani** reported in (1979) 4 SCC 167. Para-2 of the said judgment reads as under:

"2. Assurance of a fair trial is the first imperative of the dispensation of justice and the central criterion for the court to consider when a motion for transfer is made is not the hypersensitivity or relative convenience of a party or easy availability of legal services or like mini-grievances. Something more substantial, more compelling, more imperilling, from the point of view of public justice and its attendant environment, is necessitous if the Court is to exercise its power of transfer. This is the cardinal principle although the circumstances may be myriad and vary from case to case. We have to test the petitioner's grounds on this touch-stone bearing in mind the rule that normally the complainant has the right to choose any court having jurisdiction and the accused cannot dictate where the case against him should be tried. Even so, the process of justice should not harass the parties and from that angle the court may weight the circumstances."

12. The petitioner has further relied upon the Judgment passed by Hon'ble Supreme Court of India in the case of **Zahira Habibullah Sheikh v State of Gujarat** reported in (2006) 3 SCC 374, wherein it is held at Para-36 & 37 as under:-

"36. Fair trial means a trial in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated. If the witnesses get threatened or are forced to give false evidence that also would not result in a fair trial. The failure to hear material witnesses is certainly denial of fair trial.

37. A criminal trial is a judicial examination of the issues in the case and its purpose is to arrive at a judgment on an issue as a fact or relevant facts which may lead to the discovery of the fact issue and obtain proof of such facts at which the prosecution and the accused have arrived by their pleadings; the controlling question being the guilt or innocence of the

accused. Since the object is to mete out justice and to convict the guilty and protect the innocent, the trial should be a search for the truth and not a bout over technicalities, and must be conducted under such rules as will protect the innocent, and punish the guilty. The proof of charge which has to be beyond reasonable doubt must depend upon judicial evaluation of the totality of the evidence, oral and circumstantial and not by an isolated scrutiny.

13. The petitioner has further relied upon the Judgment passed by Hon'ble Supreme Court of India in the case **Abdul Nazar Madani v. State of Tamil Nadu** reported in **(2000) 6 SCC 374**. Para 7 of the said judgment reads as under:

“7. The purpose of the criminal trial is to dispense fair and impartial justice uninfluenced by extraneous considerations. When it is shown that public confidence in the fairness of a trial would be seriously undermined, any party can seek the transfer of a case within the State under Section 407 and anywhere in the country under Section 406 of the Cr. P.C. The apprehension of not getting a fair and impartial inquiry or trial is required to be reasonable and not imaginary based upon conjectures and surmises. If it appears that the dispensation of criminal justice is not possible impartially and objectively and without any bias, before any Court or even at any place, the appropriate Court may transfer the case to another Court where it feels that holding of fair and proper trial is conducive. No universal or hard and fast rules can be prescribed for deciding a transfer petition which has always to be decided on the basis of the facts of each case. Convenience of the parties including the witnesses to be produced at the trial is also a relevant consideration for deciding the transfer petition. The convenience of the parties does not necessarily mean the convenience of the petitioners alone who approached the court on misconceived notions of apprehension. Convenience for the purposes of transfer means the convenience of the prosecution, other accused, the witnesses and the larger interest of the society.”

14. On the other hand, learned counsel for the opposite party no. 2 has strenuously argued that there is no legal and valid ground for entertaining these transfer petitions. The petitioner has prayed for quashing / setting aside the order dated 19.01.2026 passed by the learned Judicial Commissioner, Ranchi. Hence, he has to file Criminal

Miscellaneous Petition under Section 482 of the Cr.P.C. (Section 528 of B.N.S.S., 2023) and not proceeding under Section 408 of the Cr.P.C. (Section 447 of B.N.S.S., 2023).

15. Learned counsel for the opposite party no. 2 has submitted that both the transfer petitions are not supported with affidavit of the petitioner, rather Pairvikar has sworn the affidavit. Therefore, in view of provision of Section 447 (3) of B.N.S.S., 2023, both the transfer petitions are not maintainable and liable to be dismissed on this count alone. In this connection, reliance has been placed on the reported judgment in the case of *Vijay Pal and Others Vs. State of Haryana and Another [(1999) 9 SCC 67]* and *Mathura Prasad Gautam Vs. B.V. Karanth and Another [1987 1 Crimes (HC) 216]*.

16. It is further contended that it is quite surprising that the petitioner is relying upon speedy trial to be prejudicial and has apprehension in his mind that fair trial cannot be conducted by the concerned court. Both the cases are summons trial cases instituted in the year 2012, but still lingered for disposal for one way or another. The main grievance of the petitioner is closure of opportunity of his evidence vide order dated 28.11.2025 against which he has filed an application under Section 311 of the Cr.P.C., which is still pending for hearing and disposal. The fixing of early dates or even for some time separating one case with another and fixing different dates in counter case does not amount to miscarriage of justice or denial of fair and impartial trial. The petitioner has raised typographical error as the ground by pointing out the order dated 28.06.2014 and other old orders, which can't give rise to any apprehension in the mind of the petitioner. If any irregular or illegal orders are passed by learned Magistrate that are always subject matter of revision or other proceeding in accordance with law and remedy does not lie in transfer of case. The petitioner has simply relied upon some interlocutory orders, causing dis-satisfaction to him, but miserably failed to bring on record the material supported by his own affidavit as to how and for what reasons, he is apprehensive of injustice and fair

trial from the court of learned Judicial Magistrate, 1st Class. Therefore, present petition filed by the petitioner is absolutely illegal, baseless, unfounded and devoid of any valid grounds and liable to be dismissed.

17. Considering the rival contentions of learned counsel for both the parties, it would be appropriate to extract the relevant provision for better appreciation of the case. Section 447 of B.N.S.S., 2023 reads as under:-

Section 447. 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 Sanhita, 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 197 to 205 (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 or bail bond 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 a copy of the grounds on which it is made; and no order shall be made on 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 interest 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 346.
- (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 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 the Government under section 218.*

18. I have given anxious consideration to the rival points of argument raised by the petitioner himself as well as learned counsel for the opposite party no. 2. There is no doubt that for the same occurrence, two cases respectively from both sides were instituted. Doranda P.S. Case No. 191 of 2012 was instituted by the opposite party no. 2 against the present petitioner for the offence under Sections 341, 323, 354, 506, 504 of the I.P.C. and the cross-case i.e. Doranda P.S. Case No. 192 of

2012 was instituted by the present petitioner, which was registered for the offence under Sections 341, 323, 505 and 506 of the I.P.C. against the opposite party no. 2 of this case. Both the cases were running in the same court and usually fixed on the same date. The main contention of the petitioner, as pointed out above, is that since coming into charge of both the cases on 10.05.2024 by the present court, both the cases were started fixing on different dates. The interlocutory applications filed by the petitioner were used to be rejected. The fair opportunity to contest by examining all the witnesses were also closed in hurried manner. Hence, he filed an application under Section 408 of the Cr.P.C. (now Section 447 of the B.N.S.S., 2023) before the court of Sessions, which was rejected without specifying any valid reasons. Therefore, the manner, in which the trial of both cases are being conducted are prejudicial to the interest of the petitioner and there is reasonable apprehension in the mind of the petitioner that he can't get fair and impartial trial from the present court of Judicial Magistrate, 1st Class.

19. It is quite obvious that for the first time, the petitioner moved before the court of Sessions for transfer of both cases to another court of Judicial Magistrate, 1st Class when due to non-appearance of petitioner as a witness in Doranda P.S. Case No. 192 of 2012, opportunity of leading evidence was closed vide order dated 28.11.2025. Later on, he has filed an application under Section 311 of Cr.P.C. to re-call the aforesaid order and provide opportunity to examine the witnesses for prosecution.

Similarly, in cross-case i.e. Doranda P.S. Case No. 191 of 2012, the prosecution evidence was closed without examination of Investigating Officer. The petitioner filed an application under Section 311 of Cr.P.C., which was allowed, but inspite of several letters issued by the court to the D.G.P., SSP, Ranchi, the Investigating Officer did not appear inspite of order of withholding of his salary, but the learned trial court, inspite of specific direction earlier issued by him, again closed the prosecution evidence without receiving any concrete

information from the concerned authority. Although, later on, it appeared that the said Investigating Officer has already been expired in the year 2024.

20. The general principles of transfer of case laid down under Section 407 (now Section 447 of B.N.S.S., 2023) as mentioned above, the case of the petitioner does not attract sub-Clause (b) & (c) of Clause (1) of Section 447 of the B.N.S.S., 2023.

21. Now it has to be considered that the grounds taken by the petitioner comes under the provision of sub-Clause (a) of Clause (1) of Section 447 of the B.N.S.S., 2023 i.e. (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;

22. The entire order sheets of both the cases, as pointed out by the petitioner and discussed above, does not speak any allegation of pre-existing bias on the part of the court. It also does not contain any allegations against the court, whereby fair trial of both the cases are not possible. Merely case and cross-case for some date fixed on different dates does not cause prejudice to any of the party. Similarly, mere, dissatisfaction of the petitioner from some interlocutory orders passed in the case is not sufficient to invoke the provision of Section 407 (Section 447 of the B.N.S.S., 2023).

23. Recent judgments of Hon'ble Apex Court and various High Courts regarding exercise of power under Section 407 of Cr.P.C. (now Section 447 of B.N.S.S., 2023) focussed on preventing the misuse of transfer powers and ensuring that cases are moved only in exceptional circumstances. Expeditious trial of the case is the demand of time. Instant cases which are summons trial cases are pending since 2012. Expeditious approach taken by the court cannot be condemned, rather at the same time the grievance of the petitioner against some interlocutory orders may be get redressed by him through proper action under law and the remedy does not lie in the transfer of cases from one court to another causing further delay in the trial of the case.

24. So far contention of learned counsel for the opposite party no. 2 with regard to affidavit sworn by the Pairvikar is concerned, I find no valid ground in the above argument of the opposite party no. 2 inasmuch as the petitions filed by the petitioner is supported with affidavit of Pairvikar and there is no specific requirement under Sub-Clause (1) of Section 407 of the Cr.P.C. that the affidavit must be filed by the petitioner himself.

25. On careful consideration of overall aspects of the case and the points raised by the petitioner, I do not find that there is any reasonable apprehension to be entertained on the basis of sufficient materials that fair and impartial trial cannot be held by the concerned trial court. It would also not be in the ends of justice to allow the present transfer petitions.

26. In view of the above discussions and reasons, I do not find any merit in these transfer petitions filed by the petitioner, which stand **rejected**.

27. Interim orders passed in both the cases are also vacated.

28. Pending I.A., if any stand disposed of.

29. Let a copy of this order be communicated to the concerned trial court for information and needful.

(Pradeep Kumar Srivastava, J.)

February 26, 2026
Sunil/
Uploaded on 26/02/2026