

In the Court of Sessions Judge, Murshidabad

**Present : Sri Partha Pratim Chakraborty,
Sessions Judge, Murshidabad
(JO-WB01240)**

Crl. Misc. Case No. 6776/2025

CNR: WBMD01-0115552025

(Under Section 448 of the BNSS)

Tulu Bibi and 2 others Petitioners

VS

1) The State of west Bengal and 2) Sarbhanu Bibi.Opposite parties

Order No. 11 dated 22.06.2026

This day is fixed for hearing of this Misc. Case.

Both sides file their respective learned Counsels' haziras.

Ld. Counsels for petitioners and OP No. 1 are present.

Ld. PP for the State/OP is present.

Heard learned Counsels for the respective parties.

Perused the case record.

By way of this petition u/s 448 of the BNSS, the petitioners Tulu Bibi and 2 others prayed for transfer of Hariharpara PS Case No. 601/2010 dated 25.11.2010 (Sess. Sl. No. 163/2013) pending before the Court of Ld. Additional Sessions Judge, 3rd Court, Berhampore Murshidabad to the Court of Ld. Additional Sessions Judge, 1st Court, Berhampore where the purported "Counter Case" being Hariharpara PS Case 600/2010 dated 25.11.2010(Sess. Sl. No. 671/2017) is pending. It is stated in the petition that both the cases arose "out of same occurrence and same transaction dated 25.11.2010 and counter cases to each other."

According to the learned Counsel, the evidence already began before the court of Ld. Additional Sessions Judge, 1st Court, Berhampore, Murshidabad in connection with Sess. Sl. No. 163/13 arising out of Hariharpara PS Case No. 60/10 dated 25.11.2010. Ld. Counsel admitted that Sess. Sl. No. 163/13 being Hariharpara PS Case No. 601/10 dated 25.11.2010 u/s 308/326/34 IPC is presently pending before the Court of Ld. Additional Sessions Judge, 3rd Court, Berhampore for evidence.

So, it is found from the said submission as well as from paragraph No. 1 of the petition that trial has already commenced in the said case being S. Sl. No. 163/13 u/s 308/326/34 IPC.

As the cases are pending before the learned Additional Sessions Judge, so it is Section 449 BNSS which will be applicable. The Sessions Judge can withdraw any case from any Additional Sessions Judge only as per provision of Section 449(2) BNSS subject to restrictions imposed as per said section. As per said section this court has no authority to withdraw case when trial has already commenced.

Accordingly, the prayer for transfer of the case record is rejected.

The instant Criminal Misc. Case is disposed of.

Let a copy of this Order be sent to the Court of Ld. Additional Sessions Judge, 1st Court, Berhampore Murshidabad and Ld. Additional Sessions Judge, 3rd Court, Berhampore, Murshidabad for information.

Dictated and Corrected by me

Sess. Judge, Msd.

Sessions Judge, Murshidabad.