

## IN THE HIGH COURT OF MEGHALAYA AT SHILLONG

**: ORDER :**

**CRL. REV.P. No.8 of 2016**

Shri Benedick N. Marak

..... Petitioner

- Versus –

S.I. P Chetry and another

..... Respondents

**Date of Order:**

**::**

**28.10.2016**

**PRESENT**

**HON'BLE SHRI JUSTICE DINESH MAHESHWARI, CHIEF JUSTICE**

Shri S Dey, for the petitioner

Shri ND Chullai, Sr.PP with S Bhattacharjee, APP for the respondents

**BY THE COURT: (ORAL)**

The petitioner, who is accused in Sessions Case No.9 of 2012 in the Court of Sessions and Special Judge, Tura, involving offences, inter alia, under Section 376 of the Indian Penal Code ('IPC'), has preferred this revision petition seeking to question the order dated 15.09.2016 whereby, the learned Sessions and Special Judge, Tura has rejected his application for transferring the case to the District Council Court.

Such an application for transfer was moved by the petitioner essentially on the grounds that the case was required to be tried by the District Council Court or Village Court to the exclusion of other Courts because the parties to the dispute were belonging to Garo Scheduled Tribe governed by Sixth Schedule to the Constitution of India.

The learned Sessions Judge has rejected the application so moved by the petitioner for two major reasons. In the first place, the

learned Judge has pointed out that as per the Notification dated 28.06.2016, issued by the Governor of State of Meghalaya under Paragraph 5 of the Sixth Schedule to the Constitution of India, he had been empowered to conduct a trial for all offences punishable with death, imprisonment for life, or imprisonment for a term of not less than five years under the Indian Penal Code or any other law for the time being applicable to the District. Secondly, the learned Judge has also pointed out that in fact, the case at hand was remanded to the Court of Sessions at Tura for a fresh trial by the High Court by way of the judgment and order dated 26.05.2016 in Criminal Appeal No. 6 of 2014 while setting aside the earlier judgment dated 10.09.2014 and order dated 19.09.2014 as passed by the Adhoc First Tract Court, West Garo Hills, Tura with directions to complete the trial within six months from the date of receipt of the copy of the order.

Having heard learned counsel for the petitioner and having gone through the record, this Court has expressed reservations in entertaining this criminal revision petition while finding the order as passed by the learned Sessions Judge being perfectly justified and unexceptionable. Upon this Court expressing thus, learned counsel for the petitioner seeks permission to withdraw.

Learned Sr.PP appearing for the respondents has no objection in the prayer so made for withdrawal.

Having regard to the circumstances, the petitioner is permitted to withdraw and this criminal revision petition is dismissed as withdrawn.

However, before parting with the matter, it appears appropriate to indicate that as per the order dated 26.05.2016 passed by this Court in Criminal Appeal No.6 of 2014, the Sessions Judge concerned was

expected to conclude the matter within six months from the date of receipt of the copy of the order; and about more than five months have already gone by. In the circumstances, it would be expected of the learned Sessions Judge, Tura to proceed expeditiously with the trial; and for that matter, if necessary, the learned Judge may consider fixing up the calendar for the trial on day-to-day basis.

With the observations foregoing, this criminal revision petition stands dismissed as withdrawn.

**CHIEF JUSTICE**

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Item No.9