

**District- Naogaon  
Tender No.34552**

In the Supreme Court of Bangladesh  
High Court Division  
(Criminal Miscellaneous Jurisdiction)

**Criminal Miscellaneous Case No.      of 2024**

**In the matter of:**

An application under section 526 of the Code of  
Criminal Procedure.

**-And-**

**In the matter of:**

Md. Kamal Hossain

.... Accused-Petitioner

**-Versus-**

The State and another

....Opposite parties

Mr. Chowdhury Murshed Kamal Tipu, Advocate

.... For the accused-petitioner.

Mr. Sujit Chatterjee, D.A.G. with

Mr. Moududa Begum, A.A.G.

Mr. Mirza Md. Soyeb Muhit, A.A.G.

Mr. Mohammad Selim, A.A.G.

Mr. Zahid Ahmed (Hero), AAG

....For the State

**Present:**

**Mr. Justice S M Kuddus Zaman**

**And**

**Mr. Justice A.K.M. Rabiul Hassan**

**The 20<sup>th</sup> May, 2024**

This application under Section 526 of the Code of Criminal Procedure at the instance of sole accused namely, Md. Kamal Hossain of G.R. Case No.137 of 2017 (Manda) arising out of Manda Police Station Case No.22 dated 15.04.2017 under Section 420/406/465/467/468/471 of the Penal Code and Session Case No.1533 of 2018 under Section 138 of the Negotiable Instrument Act, 1881 for simultaneous hearing of above two cases by one competent Court by way of transfer.

Facts in short are that Mr. Md. Mahbubul Hoque as complainant instituted two cases against the petitioner one being G.R. Case No.137 of 2017 (Manda) under Section 420/406/465/467/468/471 of the Penal Code which is pending for trial in the Court of Additional Chief Judicial Magistrate, Naogaon and the other being Session Case No.1533 of 2018 under Section 138 of the Negotiable Instrument Act, 1881 which is pending for trial in the 3<sup>rd</sup> Court of Joint Session Judge, Naogaon.

Mr. Chowdhury Murshed Kamal Tipu, learned Advocate for the petitioner submits that above two cases arose out of the identical facts and between the same party. As such convenience of both the parties as well as the witnesses will be ensured if above two cases are tried simultaneously by one competent Court. But the learned Session Judge failed to appreciate above aspect of the matter and most illegally rejected the petition filed by the petitioner under 526(2) of the Code of Criminal Procedure which is not tenable in law.

Mr. Sujit Chatterjee, learned Deputy Attorney General for the State concedes that since both the cases are between the same parties and arose out of identical facts are pending in two different Courts but ends of justice will be better served if both above cases may be heard simultaneously by one competent Court by ensuring convenience of the parties and minimizing time and cost.

We have considered the submissions of the learned Advocate for respective parties and carefully examined all materials on record.

As mentioned above two cases being G.R. Case No.137 of 2017 and Session Case No.1533 of 2018 were filed by the same complainant and the petitioner alone is the sole accused in above two cases. The facts of above two cases are also identical.

On consideration of above materials on record we hold that the convenience of both the parties and their witnesses will be better ensured and cost and time will be minimized if above two cases are tried simultaneously by one competent Court.

In above view of the materials on record we find substance in this petitioner.

We hold that the learned Session Judge committed illegality in passing the impugned order which is not sustainable in law.

The impugned order dated 20.02.2024 passed by the learned Sessions Judge, Naogaon is hereby set aside.

Let G.R. Case No.137 of 2017 (Manda) arising out of Manda Police Station Case No.22 dated 15.04.2017 under Section 420/406/465/466/467/468/471 of the Penal Code be withdrawn from the Court of Additional Chief Judicial Magistrate, Naogaon and be transferred to 3<sup>rd</sup> Court of Joint Session Judge, Naogaon for simultaneous trial with Session Case No.1533 of 2018 under Section 138 of the Negotiable Instrument Act, 1888 pending in above Court.

With above direction this application under Section 526 of the Code of Criminal Procedure is disposed of.

Communicate this order to the court concerned at once.

*MD. MASUDUR RAHMAN*  
*BENCH OFFICER*