

# IN THE HIGH COURT OF SIKKIM

## ORDER SHEET

TRANSFER PETITION (CRL.) ..... No. **1** of 200 **6**

**DIL HASAN ANSARI** ..... Petitioner / ~~Appellant~~

Versus

**STATE OF SIKKIM** ..... Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	10.05.2006	<p>Heard Mr. Amit Basu, learned Counsel assisted by Mr. D. B. Katwal, learned Counsel for the Petitioner. Also heard Mr. J. B. Pradhan, learned Public Prosecutor assisted by Mr. Karma Thinlay, learned Additional Public Prosecutor for the State - Respondent.</p> <p>In course of hearing, it transpired that GR Case No.28 of 2005 pending in the Court of learned Chief Judicial Magistrate (East and North) at Gangtok was transferred from the Court of the Sessions Judge (South &amp; West) at Namchi, by an administrative order passed by the High Court, as the learned Chief Judicial Magistrate (South and West) at Namchi had recorded statements under Section 164 Cr.P.C. and there was no other Court, which could try the case at Namchi. However, no copy of the order has been annexed with the application. On being pointed out, the learned Counsel for the Petitioner prays for a short adjournment, so as to enable him to produce</p>	



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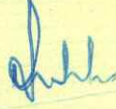
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the copies along with an application for incorporating  
the same in the present application.

With the consent of the learned Public  
Prosecutor, the Petitioner is allowed a week's time.

List this matter for further hearing on **19<sup>th</sup>**  
**May, 2006.**

At/

  
( **A. P. Subba** )  
**Judge**

**2. 19.05.06** Heard Mr. Amit Bose, Ld. Counsel assisted by  
Mr. T. Namgyal, Ld. Counsel for the petitioner. Also  
heard Mr. J.B. Pradhan, Ld. Public Prosecutor.

The petitioner has filed an amendment  
application duly annexing certified photocopies of  
relevant documents in terms of the order dated  
10.05.2006. Copy of the application has been served  
on the respondent State.

As per Annexure P-5 the G.R. Case No. 28 of  
2005 was transferred to the court of Chief Judicial  
Magistrate, (East & North) at Gangtok from the court  
of Ld. Chief Judicial Magistrate (South & West) at  
Namchi since the Ld. Chief Judicial Magistrate  
(South & West) had recorded the 164 statements and  
was listed as prosecution witnesses. It is stated that  
the place of occurrence falls in Jorethang in South  
District and the court of Judicial Magistrate at  
Namchi, South District which has jurisdiction over  
the matter now being functional an alternative forum  
is presently available. It is also stated that since  
witnesses in the case all hail from South District it  
will be more convenient if the case is transferred to  
South District as prayed for.

Keeping in view of the fact that normally the  
court within whose jurisdiction the place of  
occurrence falls will have jurisdiction to try the case



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and the convenience of both the parties and the witnesses if the trial is held at Namchi, South Sikkim, the transfer petition is allowed.

Accordingly the G.R. Case No. 28 of 2005 now pending in the court of Chief Judicial Magistrate (East & North) at Gangtok stands transferred to the court of Judicial Magistrate, South at Namchi. The parties shall appear before the said court on 02.06.2006.

Copy of the order may be sent to the concerned courts for information and compliance.

**(A.P. Subba)**  
**Judge**

A Copy of order  
forwarded to CSM  
(E+N) and J. Mag.  
Mag. South on  
22.5.06. ~~22/06/06~~