



Sl. No.	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
2.	08-05-2007	<p>Heard Mr. Amit Bose, learned counsel assisted by Ms. Manita Pradhan appearing for the accused/petitioners and also heard Mr. J. B. Pradhan, learned Public Prosecutor assisted by Mr. Karma Thinlay, learned Additional Public Prosecutor for the State-respondent.</p> <p>2. The order dated 18th December, 2006 passed by the learned Chief Judicial Magistrate (S & W), Sikkim in G.R. Case no.80 of 2005 is the subject-matter under challenge in this Revision Petition. The main grievance of the accused-petitioners is that the two cases, namely, G.R. Case no.80 of 2005 and G.R. Case no.28 of 2005 now pending before the Courts' below have been amalgamated and the said cases shall be tried by the same Court under the impugned order, which is illegal and not tenable in the eye of law. At the hearing, the accused-petitioners supporting their case took the plea that no Court inferior to that of a Chief Metropolitan Magistrate or Chief Judicial Magistrate, can try any offence punishable under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 (in short 'Act of 1978'), but the Court below caused the transfer of G.R. Case no.80 of 2005 in the file of learned Judicial Magistrate at Namchi without any justification. According to the learned counsel for the accused-petitioners no Courts inferior to that of a Chief Metropolitan Magistrate or Chief Judicial Magistrate can try any offence punishable under the Act of 1978, except if there is a specific direction of any Hon'ble High Court but the Court below</p>	

N. Bose



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transferred the G.R. Case no.80 of 2005 beyond jurisdiction. While submitting this law point, learned counsel for the accused-petitioners drew my attention to section 9 of the Act of 1978.

3. I have perused the related provisions of law laid down, under section 9 of the Act of 1978. It is true that no Court inferior to Chief Judicial Magistrate shall try any offence punishable under this Act of 1978. But, it is astound that in the course of the trial, on the motion of the accused-petitioners, the case being G.R. Case no.28 of 2005 was transferred to the file of learned Judicial Magistrate, South for trial.

4. It is well-settled that there is no bar to try jointly two cases where more offences than one are committed by the same person(s) and there is no infirmity or illegality, as he may be charged with in the joint trial for the offence(s) if one series of acts are connected and form the same transaction. According to me, the Court below had dealt with the matter exhaustively and gave reasoned orders except a little omission which is curable in law. Some important and relevant observations of the Court below is quoted below:-

“..... In view of the above circumstances therefore, especially when related documents are not before this court it would in my opinion not be prudent to proceed any further with the matter, as this Court would not be in a position to properly adjudicate the matter. Under such circumstances, therefore, it is ordinarily desirable that both the cases be tried by the same Court.”

N. J. D. S.



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In view of the existing facts and circumstances of the case, it would be just and proper to transfer the two cases mentioned above to the file of Chief Judicial Magistrate (E & N), Gangtok, Sikkim for disposal of the two cases according to law.

5. For the reasons, observations, and discussions made above, this Revision Petition is devoid of merit, accordingly, it is rejected thus transferring the two cases, namely, G.R. Case no.28 of 2005 and G.R. Case no.80 of 2005 to the file of the Chief Judicial Magistrate (E & N), Gangtok, Sikkim for disposal of the cases according to law expeditiously, but no order as to costs.

6. The Registry is directed to send a copy of this order to the Courts' below and transmit the related case records available with the Registry of this Court immediately to Chief Judicial Magistrate (E & N), Gangtok, Sikkim. It is made clear that the Judicial Magistrate, South is also directed to transmit the case record of G.R. Case no.28 of 2005 to the file of Chief Judicial Magistrate (E & N), Gangtok, Sikkim.

N. S. Singh
(**N. S. Singh**)
Judge
08-05-2007

1. Trial Court records forwarded to CJM, (E & N) on 10-5-07 with a information copy
9. J.M (S)

2. A copy of order forwarded to CJM (S & N) and JM(S) on 11-5-07.

Jugans
11/5/07