

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 431 OF 2015

SAEED KHAN SHERGUL KHAN

VERSUS

THE STATE OF MAHARASHTRA & ORS

...

Advocate for Petitioner : Mr. M. R. Wagh h/for Mr. Paranjape Prakash S

APP for Respondent State: Mrs. R. K.Ladda

Advocate for Respondents 2 to 5 : Mr. Mohsin Khan Pathan

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CORAM : T. V. NALAWADE

DATE : 16th July, 2015

PER COURT :

1. The petition is filed to challenge the order made by the learned Sessions Judge, Parbhani in Criminal Misc. Application No. 18/2011. The application was filed for transfer of RCC No. 245/2008 from the Court of JMFC, Jintur to the Court of Chief Judicial Magistrate, Parbhani.

2. Mr. Wagh, the learned counsel submits that the Advocate on record for the applicant is not available and he wanted time. This Court had already made it clear on 26.06.2015 that if the matter is not argued, it will be dismissed. On that day, nobody was present for the petitioner, but the matter was not dismissed.

3. The record shows that Cri. Misc. Application No. 18/2011 was, in the past, decided in favour of the present petitioner by the then Sessions Judge on 15.04.2011. Notice of transfer application was not given to other side and behind their back, the order was made by the Sessions Judge. The said order was challenged by filing Writ Petition No. 125/2015. After hearing both the sides, this Court allowed the petition and set aside the order made by the Sessions Judge and remanded the matter back to the Sessions Judge.

4. After remand, opportunity to submit their case was to given to

both the sides before deciding the matter. The learned Sessions Judge, rejected the application on 05.03.2015. The Sessions Judge considered the pendency of other matters also like RCC No.312/2011. Both of these cases are now transferred to the Court of the Court of JMFC, Jintur.

5. The applicant has contended that in one incident dated 30.04.2008, when he was proceeding to Jintur to meet MLA, Jintur his jeep was intercepted. He was assaulted and damage was caused to his jeep. According to him Crime No. 51./20010 came to be registered with Jintur Police Station against relatives of wife. He has contended that due to the aforesaid incident, there is fear in his mind that similar incident will again take place, if the case is kept in Jintur.

Learned Sessions Judge has observed that there is virtually no record in respect of contention that any injury was caused to the applicant in the said incident. Further, the circumstance that if the case is transferred to Parbhani from Jintur, the State will be required to spend on witnesses for conveyance etc. and this circumstance cannot be ignored.

6. It is dispute between husband and wife and case is registered under section 498-A IPC. Wife is resident of Jintur. The case is of the year 2008. The circumstances indicate nothing but delaying tactics on the part of husband. This Court sees no reason for interfering in the order made by the Sessions Court.

7. In the result, the criminal writ petition is dismissed.

(T. V. NALAWADE, J.)

JPC