

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**Criminal Application No.4214 of 2014**

Rajabhau s/o Limbaji Gite  
And Others.

**.. Applicants.**

**Versus**

The State of Maharashtra  
And Others.

**.. Respondents.**

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Shri. Shrikant G. Kawade, Advocate, for applicants.

Shri. P.N. Mule, Additional Public Prosecutor, for  
respondent No.1.

Shri. S.B. Solanke, Advocate, for respondent No.3.

Shri. S.V. Kurundkar, Advocate, for respondent Nos.5,7  
and 14.

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**CORAM: T.V. NALAWADE, J.**

**DATE : 23<sup>rd</sup> JUNE 2015**

**ORDER:**

1) The application is filed to challenge the order made by the learned Sessions Judge Beed in Criminal Application No.2 of 2014. Learned counsel for the applicants and the learned Additional Public Prosecutor are heard.

2) Today learned counsel Shri. S.V. Kurundkar appearing for respondent Nos.5,7 and 14 seeks discharge from the proceeding. He submits that when he was Public Prosecutor he had conducted matters against them so he does not feel appropriate to conduct the matters on behalf of them. He submits that he has served notice on those respondents for giving them intimation.

3) Filing of vakalatnama is within the right of the Advocate. When the Advocate wants to withdraw, it is up to Court to decide whether permission can be granted. In view of the peculiar circumstances this Court holds that permission cannot be granted and the Advocate was asked to argue the matter. He preferred not to argue for those respondents. This Court feels that the matter cannot be prolonged further and decision cannot be delayed and so the matter is decided.

4) Learned counsel Shri. S.B. Solanke submits that he has filed appearance for respondent No.3 and he seeks time to file short affidavit.

5) Short point is involved in the matter. It appears that some accused persons from Crime No.91/2014 (case is filed in this crime in Ambejogai Court) had approached the learned Sessions Judge for getting transfer order in respect of RCC No.40/2013 (Crime No.91/2011) from the Court of Ambejogai to the Court from Majalgaon where other cases were pending. Submission was made before the learned Sessions Judge that contentions made in all the criminal cases were similar and the documents involved in those cases were the same. It was submitted that nature of the charges were also not different and there was possibility of duplication of recording of evidence and that there was possibility of coming out conflicting decisions in the criminal cases. They requested for clubbing those matters.

6) In Criminal Application No.2/2014 filed in the Sessions Court Beed, particulars of the crimes and the criminal cases are given. They show that they are in respect of different societies like (i) Sindhphan Shetimal Vitaran Panan Sahakari Society Dev Dahiphal, Taluka Dharur; (ii) Jagdamba Shetimal Vitaran Panan Sahakari

Society Dev Dahiphal, Taluka Dharur, (iii) Jotiba Shetimal Purvatha Panan Sahakari Sanstha Maryadit Ganvandara, Taluka Dharur; and (iv) Shetkari Sahakari Telbiya Prakriya Sanstha Maryadit, Ghatnandur, Taluka Ambejogai.

7) The cases are filed for offences punishable under sections 409, 420, 467, 468, 471, 34 etc of the Indian Penal Code and there may be section 120-B IPC also in view of the nature of allegations.

8) There are hundreds of instances of fraud in Beed District. There are allegations that bogus institutions were floated. There are allegations that by using different *modus operandi* the amount was siphoned from the District Central Cooperative Bank through the societies and it was misappropriated by the persons from the societies and also by the persons who were controlling the District Central Cooperative Bank. It can be said that in respect of each society separate and distinct offence was committed. In view of this fact there cannot be possibility of coming out conflicting decisions. There is no possibility of duplication of evidence as separate evidence will have

to be recorded in each and every case. These simple things are not noticed by the learned Sessions Judge.

9) Learned counsel for the present applicants submits that influential persons are trying to see that trials are protracted any how and this was one of the *modus operandi* used for protracting the decisions of the criminal cases. He submits that the applicants from the present case are poor labours and agriculturists and they are unnecessarily suffering due to the influence of the influential persons. He submits that the present applicants had not applied for transfer and the aforesaid circumstances are not at all considered by the learned Sessions Judge. It was submitted that they are unnecessarily suffering as they are required to go to Majalgaon from their different places of residences and unnecessary inconvenience is also caused to them. It was submitted that they are required to spend more due to transfer of their cases.

10) Ordinarily a case needs to be tried at the place where the offence is committed and by the Court having

local jurisdiction over the case. Considering the grounds on which the transfer was sought it can be said that the grounds were false. This Court holds that the learned Sessions Judge has committed error in giving order of transfer. In view of these circumstances no need is felt to give time to the learned counsel who has appeared for respondent No.3 and no permission was granted to learned counsel Shri S.V. Kurundkar who wants discharge from the matter.

11) In the result, the application is allowed. The order of the learned Sessions Judge Beed is hereby quashed and set aside and the matter is transferred back to the original Court from Ambejogai.

Sd/-  
**(T.V. NALAWADE, J. )**

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