

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [APPLN] NO.498 OF 2015

|                                   |               |
|-----------------------------------|---------------|
| Ms. Sweta Ganesh Shinde           | ..Applicant   |
| <i>Versus</i>                     |               |
| The State of Maharashtra and Anr. | ..Respondents |

....  
Ms. Neha S. Bedekar, for the Applicant.  
Mrs. Anamika Malhotra, APP, for the State.  
....

CORAM : A. R. JOSHI, J.

DATE : 4<sup>th</sup> SEPTEMBER, 2015

P.C.

1. Heard learned Counsel for the applicant in this application for transfer of pending Sessions Case No.35 of 2013 arising out of C.R. No.390 of 2012 registered with Kalamboli police station, District - Raigad.
2. The transfer of the proceedings is sought only on the ground that there are threats to the life of the present applicant - original defacto complainant if she pleases to attend the trial Court for giving her evidence.
3. On the above allegations, in order to ascertain whether

there is any ground for transfer of Sessions Case from District Alibag, Raigad to any other Sessions Court, a report from the concerned Court was called. So also report from the concerned police station was called.

4. First report received from the Principal District and Sessions Court reveals certain startling facts and they were detailed in the order on 2.9.2015, as to earlier framing of the charge and recording of the plea of the accused but not finding the said document of charge in the Court record. On that premise, second report from the learned Principal District Judge, Raigad was called and it is today placed before this Court which is dated 3.9.2015. This report specifically mentions that as and by way of abundant care and caution a fresh charge is framed against the respondent on 2.9.2015 and the plea of the accused was recorded. This second report also mentions that on the application under Section 294 of Cr.P.C. preferred by the prosecution, the defence has given the say not admitting the documents. Now reportedly said Sessions Case is fixed on 28.9.2015 for formal hearing i.e. for fixing the confirmed date to start with the matter.

5. Though during the arguments learned Counsel for the applicant made grievance regarding threats given to the applicant by the respondent/accused and/or his associates, it is further clarified by learned Counsel for the applicant that no written complaints were lodged with Kalamboli police station. This factual position is in fact reported in the report produced today before the Court which is given by the concerned Investigating Officer.

6. The police report shows that no any complaint was given to Kalamboli police station regarding threats being given to the applicant and her family members. Though the factual position is so, as the sessions case is for the serious offence punishable under Section 376 of IPC, in the opinion of this Court though there is no case for transfer of Sessions Case from the present Court, still measures are required to be taken by the concerned Sessions Court and also by the Investigating Agency if there are instances of giving threats to the witnesses including the present applicant/original defacto complainant. In that eventuality of threats being given by the accused or his associates to any of the prosecution witnesses, appropriate

action is required to be taken by the concerned Sessions Court and also the concerned prosecuting agency on appropriate application / information from the witnesses or from the present applicant / original complainant.

7. With these directions, present application is disposed of. Needless to mention that now under the above circumstances though there is no transfer of the Sessions case, the concerned Sessions Court shall deal with the matter expeditiously and dispose of the same in accordance with law in consonance of the directions given in the present order so far as securing the safety of the prosecution witnesses. Application is disposed of accordingly.

( A. R. JOSHI, J.)

Deshmane (PS)