

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.156 OF 2014

(Mangesh s/o Shivdas Kodvate and others vs. The State of Maharashtra and another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri M. Husain, Advocate for applicants.

Ms. T. Udeshi, Additional Public Prosecutor for
respondent no.1.

Ms. S.H. Bhatia, Advocate (appointed) for
respondent no.2.

CORAM : A.B. CHAUDHARI AND
P.N. DESHMUKH, JJ.

DATED : JANUARY 22, 2015

Heard learned Counsel for the rival
parties.

The applicants are being prosecuted for
the offence punishable under Section 498-A read
with Section 34 of Indian Penal Code.

The learned Counsel for the applicants
submits that no offence is made out as per the first

information report lodged by respondent no.2. He further submits that the alleged offence took place within territorial jurisdiction of Nagpur and not at Bhivapur and, therefore, though the charge-sheet has been filed, the case should be transferred to Nagpur Court.

Upon hearing learned Counsel for the rival parties, we find that prima facie case is made out and that apart, since charge-sheet has been filed on 11/3/2014, the alternate remedy is available to the applicants for approaching the trial Court. Insofar as grievance about transfer of the case from Bhivapur to Nagpur is concerned, we find that applicants can take recourse to relevant provisions in the Code of Criminal Procedure before the competent Court. The judgment and order dated 19/3/2013 in Criminal Application No.1176/2010 cited by the learned Counsel for the applicants does not have application since the issue about availability of alternate remedy under Criminal Procedure Code for transfer was not considered. The criminal application is, therefore, dismissed.

The fee payable to the learned Counsel

appointed for respondent no.2 is quantified as rupees fifteen hundred.

JUDGE

JUDGE

khj