

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

CRIMINAL APPLICATION NO. 4547 OF 2015

1. Balwant s/o Dattatraya Bawane,
Age: 32 years, Occ: Agri.,
R/o. Girwali Bawane, Tq. Ambajogai,
Dist. Beed.
2. Sonerao s/o Maroti Sarwade,
Age: 26 years, Occ: Agri.,
R/o. As above. ...Applicants

versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Bardapur,
Tal. Ambajogai, Dist. Beed.
2. Kalyan s/o Shrihari Apet,
Age: 33 years, Occ: Agri.,
R/o. Girwali, Tal. Ambajogai,
Dist. Beed.
3. Mahadeo @ Pappu Dhanraj Apet,
Age: 27 years, Occ: Agri.,
R/o. As above. ...Respondents

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Mr. S.S. Thombre, Advocate for applicants
Mr. A.R. Kale, A.P.P. for respondent/State
Mr. S.J. Salunkel, Advocate for respondent Nos. 2 & 3

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CORAM : N.W. SAMBRE, J.

DATE : 25th APRIL, 2016

ORAL ORDER :

In Special (Atro) Case No. 14 of 2013 (The State of Maharashtra vs. Kalyan Shrihari Aapet & Ors), an application Exhibit-16 came to be moved by respondents-accused praying therein

clubbing of trial arising out of the Crime Nos. 59 of 2012 and 11 of 2012. Crime No. 59 of 2012 was registered on 28/11/2012 upon complaint of Satish Burande preferred against the present applicants who were shown to be an accused therein. So far as another Special (Atro) Case arising out of the Crime No. 11 of 2012 is concerned, same was preferred by one Datta, who is an accused in Crime No. 59 of 2012 against the said accused persons, who have hardly any connection with Crime No. 59 of 2012.

2. The application for clubbing came to be allowed by learned Additional Sessions Judge, Ambajogai, by allowing application Exhibit-16 by an order dated 20/02/2015 directing conducting of trial in Regular Criminal Case No. 172 of 2013 with Special (Atro) Case No. 14 of 2013.

3. Mr. Thombre, learned Counsel for the applicants, who are accused in Crime No. 59 of 2012 i.e. Regular Criminal Case No. 172 of 2013, who questioned the legality of the order passed by learned Sessions Judge clubbing both the trials, would submit that there is hardly any legal basis for passing the order of clubbing of both the trials. He would submit that in absence of legal propriety or with an object of attending the claim of the parties of fair trial, the order ought not to have been passed without mentioning such

reasons.

4. Mr. Salunke, learned Counsel for the respondent Nos. 2 and 3, while supporting the order, would urge that the order is in the interest of justice and for fair trial, learned Sessions Judge has passed the said order below Exhibit-16. He would then submit that the intention and object appears to give fair opportunity to the accused persons and to decide the proceedings expeditiously.

5. With the assistance, I have perused the contents of F.I.R., name of the accused and role attributed to each of the accused in both the crimes.

6. What is common in both the crimes is that the present applicants are accused in Crime No. 59 of 2012 and accused Datta in Crime No. 59 of 2012 is the complainant in Crime No. 11 of 2012. In Special (Atro) Case, the accused persons were altogether different and nothing to do with the accused by complainant in Crime No. 59 of 2012. There is hardly any connection with both these crimes and it is only for the sake of asking, learned Sessions Judge has allowed the application and directed clubbing, in my opinion, is not sustainable having no foundation of law.

7. As a consequence of above, the present application is allowed. The impugned order dated 20/02/2015 passed by Additional Sessions Judge, Ambajogai below Exhibit-16 in Special (Atro) Case No. 14 of 2013 is hereby set aside.

8. The criminal application stands allowed in above terms.

[N.W. SAMBRE, J.]