

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2 CRIMINAL APPLICATION NO.1452 OF 2015

RAJENDRA TUKARAM AHIRRAO & Ors.

VERSUS

THE STATE OF MAHARASHTRA & Anr.

...

Advocate for Applicant : Mr. Shinde S.K.

Mr. SR Yadav, APP for Respondent/State:

Mr. NB Patekar, Adv. h/for Mr. PR Katneshwarkar,
Advocate for Respondent No.2.

CORAM : P.R.BORA, J.

DATE : 14th August, 2017.

PER COURT :

1) Heard learned Counsel appearing for the applicants and learned Counsel appearing for Respondent No.2.

2) By filing the present application, the applicants are seeking transfer of Regular Criminal Case No.75/2006 pending on the file of the Chief Judicial Magistrate, Dhule to any other court, preferably at Malegaon or at Chandwad in district Nasik. The learned Counsel submitted that Respondent No.2, being a practicing lawyer,

the applicants apprehend that they may not be able to effectively defend the case lodged by Respondent No.2 if the same is conducted at Dhule.

3) It is alleged by the applicants that they are having every apprehension that Respondent No.2 and her brother may cause physical harm to them. It is further contended that, the threats are being received to the applicants that if they speak against Respondent No.2, they will be taken to task. The learned Counsel invited my attention to the request letter written by the applicants to the learned Principal District Judge on 14th January, 2015 thereby praying for initiating necessary action against Respondent No.2 and her relatives for threatening to the applicants and by harassing them by filing various applications and changing dates in the matter by bringing pressure on the court employees.

4) The learned Counsel further submitted that in the year 2010, the applicants were constrained to file a report against brother of Respondent No.2. The learned Counsel submitted that for fair trial against the applicants, it is required that the trial is transferred from Dhule court to any other court. He further submitted that the applicants are ready to bear the travelling expenses and daily expenses of the witnesses, which may be examined by Respondent No.2 in the aforesaid criminal case.

5) Learned Counsel appearing for Respondent No.2 has opposed the submissions made on behalf of the applicants. The learned Counsel submitted that the facts are otherwise and the harassment is being done by the present applicants to Respondent No.2 by adopting various methods. The learned Counsel submitted that several proceedings are going on between the parties and many of them are only for the purpose of harassing Respondent No.2. The learned Counsel

further submitted that all the allegations made in the application are in toto denied by Respondent No.2 in her affidavit in reply. The learned Counsel submitted that on the earlier occasion also, same request was made by the applicant No.1, for transfer of the maintenance proceedings filed by Respondent No.2 in Dhule court. The learned Counsel submitted that the said application was disposed of by the High Court by providing a limited relief to applicant No.1 of seeking police protection, if so required. The learned Counsel further submitted that applicant No.1 was never required to take any such protection. The learned Counsel submits that all allegations are vague and only with the purpose to cause harassment to Respondent No.2. The learned Counsel, therefore, prayed for dismissal of the application.

6) After having considered the submissions made by learned Counsel appearing for the parties and on perusal of the material on record,

apparently, it is revealed that no such case is made out by the applicants for transferring the matter from Dhule court to any other Court. Admittedly, the concerned Regular Criminal case is pending in Dhule court since 2005. The reasons are not disclosed as to why for 12 years, the trial could not be completed. According to learned Counsel for Respondent No.2, the trial has been prolonged at the instance of the applicants, whereas it is the contention of the applicants that they are not at fault and the case has been prolonged by Respondent No.2. Whatever may be the reason, the fact remains that the case has not proceeded further. From the material on record, there does not appear any such threat, as apprehended by the applicants. Except one non-cognizable case filed in the year 2010, there is no such evidence placed on record that thereafter the applicants were required to make any such complaint to the police authorities or any such specific instance was brought to the notice of the court at Dhule. Mere verbose

allegations may not be enough to accept the request to transfer the proceeding. Law is well-settled that unless there are compelling reasons, the matter shall not to be transferred from one court to other. Since no such ground is made out, I am not inclined to accept the request made by the applicants. In the result, the following order, -

ORDER

i) The application is rejected. However, the Trial Court is directed to proceed with the trial of Regular Criminal Case No.75/2006 expeditiously;

(P.R.BORA,J.)

bdv/