

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.456 OF 2016

SURINDER JORASINGH PUNJABI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Ms.Nasreen Ayubi, Advocate for the Applicant.

Ms.A.A.Takalkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 10th APRIL 2017

P.C. :

1 By this application, applicant / accused no.1 is praying for transfer of Sessions Case No.460 of 2015 from the file of learned Sessions Judge, Mumbai, to the file of Metropolitan Magistrate having jurisdiction to try the said case by invoking the provisions of Section 228(1)(A) of the Code of Criminal Procedure.

2 Heard the learned advocate appearing for the applicant/ accused no.1. She argued that applicant/ accused no.1 came to be arrested on the accusation that he had submitted a forged demand draft of Rs.7 Lakh to M/s.Dia Precious Jewellery Private Limited with the help of two lady accused for purchasing a gold necklace set. According to the learned advocate appearing for the applicant/ accused no.1, during investigation forged counterfeit currency notes came to be seized from the house of the co-accused, and therefore, composite charge-sheet came to be filed against the accused persons. The learned advocate argued that seizure of counterfeit currency notes from the house of the co-accused has no concern with the act of the alleged offence committed by the present applicant / accused no.1 and therefore, the criminal case needs to be transferred from the file of the Sessions Judge, Mumbai, to the file of the Metropolitan Magistrate, Mumbai, for its trial, as offences punishable under Sections 465, 466, 467, 468, 471, 420 and 120B of the IPC are exclusively triable by the Metropolitan Magistrate. It is argued that the applicant / accused no.1 is in no way concerned with the

offences punishable under Sections 489(A), (C) or (D) read with 120B of the IPC.

3 The learned APP opposed the application by contending that the offences are arising out of the same transaction and therefore, the sessions case is triable by the court of Sessions.

4 As per provisions of Section 223 of the Cr.P.C., persons accused of different offences committed in the course of same transaction can be tried jointly in one trial. What can be construed as “in the course of the same transaction” can be ascertained from the provisions of sub-section (1) to Section 220 of the Cr.P.C. If in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, then, he can be charged with and tried at one trial, for every such offence. If it is shown that one series of act is so connected, so as to form the same transaction, then there can be a joint trial. In the case in hand, allegations against accused

persons are to the effect that they were preparing forged demand drafts as well as they were printing counterfeit currency notes and other valuable securities and were using the same consciously. Therefore, *prima facie*, it is seen that all offences are committed in one series of acts interconnected with each other in order to form the same transaction. As such, in the wake of provisions of subsection (d) of Section 223 of the Cr.P.C., joint trial of such offences is warranted.

5 In this view of the matter, no illegality can be found with the impugned order of the learned trial court. Hence the order :

- i) The application is rejected.

(A. M. BADAR, J.)