

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.852 OF 2015

Pravin C. Survey	...	Applicant
V/s.		
The State of Maharashtra & Anr.	...	Respondents

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Mr.M.S.Mohite i/b. A.A.Patankar, Advocate for the Appellant.
Ms.A.A.Takalkar, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 3rd MARCH 2017.

P.C. :

1 By this application under Section 407 of the Code of Criminal Procedure, the applicant/accused in about 29 Criminal Cases pending against him at various Special Courts constituted under Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999 (For short, 'the MPID Act') is praying for transfer of all those cases at the file of one Court in pursuant to two Judgments passed by the Division Bench of this Court.

2 Heard Shri.Mohite, the learned Advocate for the
applicant/accused. He drew my attention to the Judgment of

Division Bench of this Court in Criminal Writ Petition No.2291 of 2005 as well as Criminal Writ Petition No.1771 of 2012 delivered on 29/09/2005 and 24/08/2012 respectively. In submissions of the learned counsel for the applicant, there is no alternative, but to transfer all pending criminal cases against the applicant enlisted in the list at Exh.'A' to the application on the file of one Special Court.

3 The learned Additional Public Prosecutor opposed the application by contending that there are about 4515 witnesses in those 29 criminal cases pending against the applicant at various Court. She argued that witnesses are from Mumbai, Thane, Raigad, Ratnagiri, Nagpur, Chandrapur, Sindhudurg, Pune, Nashik, Solapur, Sangli, Kolhapur, Satara, Buldhana, and Ahmadnagar districts. According to the learned Additional Public Prosecutor, transferring all these cases in one single Court would cause prejudice and hardship to all these witnesses, as they will have to travel a long distance in order to adduce evidence before one designated Judge.

4 I have carefully considered the rival submissions.

5 Paragraph 1 of the order dated 29/09/2005 passed in Criminal Writ Petition No.2291 of 2005 reads thus :

“Heard both sides. So far as prayer clause (b) is concerned, the same will be taken care of by our previous order dated 6th September 2005 passed in Criminal Writ Petition No.1786 of 2005 whereby we had directed that all the 28 complaints lodged at various police stations in the State of Maharashtra be clubbed together and common investigation be carried on by the State CID. Pursuant to the said order, we are informed by the APP, CID has undertaken the investigation in all those 28 cases. As a necessary consequence to the above order, all these cases will be tried in one Court. In view of the aforesaid order we see no difficulty in CID taking over any fresh complaints lodged in respect of the subject matter of those 28 complaints even if they are filed at some other police stations in the State of Maharashtra. In view of this observation, no further order is required to be passed as regards prayer clause (b) of this petition.”

6 Similarly paragraph one of the order dated 24/08/2012 passed by the Division Bench of this Court in Criminal Writ Petition No.1771 of 2012 reads thus :

“The petition is founded on apprehension that the 29 complaints registered against the petitioner would be proceeded separately. The order dated 29th September,

2005 passed in Criminal Writ Petition 2291/2005 unambiguously directs CID to proceed with all the complaints against the petitioner together as also to try the cases in one Court. The petitioner has now approached this Court presumably because police officers from different police stations have visited his house. Learned A.P.P. submits that visits were made by police officials to trace the petitioner who was not available. That does not mean that the cases registered against the petitioner would be tried in different courts in spite of order dated 29th September, 2012. The apprehension of petitioner is misplaced. As no other grievance is made before us, petition is dismissed.”

7 Upon being asked, the learned Additional Public Prosecutor stated that both these orders are still holding the field and they are not challenged by the State before the Honourable Apex Court. As such, it becomes clear that as per the mandate of these two orders passed by the Division Bench of this Court, all cases will have to be tried in one Court. Both these orders have attained finality. In the wake of these orders, I do not find any substance in the submissions of the learned Additional Public Prosecutor that because of hardship to the witnesses, the cases should not be transferred to one Court.

8 Reply filed by the State shows that in Crime No.134 of 2004 registered at Karad City Police Station, Satara, there are 962 witnesses cited by the prosecution. Similarly in the Crime registered at Sangli Police Station, Sangli, 812 witnesses are cited. In the crime registered at Shahupuri Police Station, Kolhapur, 768 witnesses are cited. In the crime registered at Baramati Police Station, Pune 163 witnesses are cited, whereas in the crime registered at Jail road Police Station, Solapur 164 witnesses are cited. It is, thus, clear that the Special Court at Karad will be the most suitable Court for transfer of all other pending criminal cases in order to comply directions given by the Division Bench of this court vide orders dated 29/09/2005 and 24/08/2012. This course will minimize the hardship to large number of witnesses. Hence, the order :

- (i) This Criminal Application is allowed.
- (ii) All criminal cases mentioned in the list Exh.'A' to the application pending on the file of various designated Courts under MPID Act are transferred to the file of the learned designated Judge at Karad, District Satara, where Criminal Case arising out of Crime No.134 of 2004 wherein 962 witnesses are cited is pending.
- (iii) The application is disposed of accordingly.
- (iv) The applicant/accused to appear before the designated Court at Karad on 27th April 2017.

(A.M.BADAR J.)