

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CRIMINAL APPLICATION (APPPLN) NO. 14 OF 2017**

( Nanda Vasantao Devghare..vs..Vitthal Fakiraji Mankar )

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

Court's or Judge's orders.

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Shri A.R.Ingole, Advocate for applicant.

**CORAM : V.M. DESHPANDE, J.**  
**DATED : AUGUST 8 , 2017**

The tendency of the litigants like present applicant is on rise to make reckless allegations against the courts. Such tendency has to be curbed then and there otherwise it will be very difficult for a Court to dispense with the justice.

2] The present applicant faced a criminal prosecution for the offence punishable under Section 138 of the Negotiable Instruments Act, and the same was decided by the Learned Judicial Magistrate First Class(Court No.2), Warud District-Amravati and after appreciating the complainant's case learned Magistrate in S.C.C.No.276/2008 held the present applicant as guilty. Against the said judgment statutory appeal is filed by the present applicant and the same is pending before the competent Appellate Court.

3] It appears that, in the meanwhile the applicant was also facing another complaint bearing S.C.C.No. 416/2008 and it was also pending before the same learned Judge who has decided the earlier S.C.C.No.276/2008.

4] It appears that the applicant has innovated a way to get her matter shunted from the said Court's file by complaining against the learned Judge before learned

Principal District Judge at Amravati. Without there being any basis she submitted before the Learned Principal District Judge, Amravati that she is nursing apprehension in her mind that she will not get justice. Thereafter, she immediately filed an application under Section 408 of the Code of Criminal Procedure before learned Sessions Judge, Amravati for transferring her case from the file of learned Judicial Magistrate First Class (Court No.2), Warud to the file of learned Judicial Magistrate First Class (Court No.1), Warud. The application filed on behalf of the present applicant was registered as Misc.Criminal Application No.78/2015. The learned Sessions Judge, Amravati rejected the said application vide order dated 8/12/2016. While rejecting the application learned Sessions Judge noticed that there is no substance in the application under Section 408 of the Code of Criminal Procedure. The learned Judge also noticed that the ground which was sought to be urged before him cannot be a ground for transfer.

Hence, the present application under Section 482 of the Code of Criminal Procedure.

5] I have heard learned advocate for applicant. He submits that since the applicant was convicted by the learned Judicial Magistrate First Class (Court No.2), Warud in S.C.C.No.276/2008 there is an apprehension in the mind of the applicant that she will not get justice from the said learned Magistrate and therefore, she wants that her case to be transferred to the file of learned Judicial Magistrate First Class (Court No.1), Warud.

6] The complaint in which, the applicant was accused, was found to be guilty by learned Magistrate by delivering the judgment. It is not the case of the present applicant that in the said proceeding any opportunity was denied to her. It was never case of the present applicant that though particular defence was sought to be raised by the present applicant it was curbed by the learned Judge. The statutory appeal filed by the present applicant against her conviction is still pending before the learned Appellate Court.

7] It appears from chronology that other criminal complaint for the offence punishable under Section 138 of Negotiable Instruments Act is also pending on the file of the very same learned Magistrate, therefore firstly, applicant gave a complaint to the learned Principal District Judge, Amravati against the said learned Magistrate. Thus, it appears to me that the present applicant started trying to create a ground in her favour for shunting the matter from the file of learned Magistrate. After filing the complaint before learned Principal District Judge, Amravati application under Section 408 of Code of Criminal Procedure for transfer the matter was filed.

8] Merely because a particular case is decided against the litigant there is no reason for the said litigant to imagine in his/her mind that his/her other case will not be decided in accordance with law. Especially, in the present case it was never the case of the applicant that opportunity to defend her case was not afforded to her by learned Magistrate. The Courts are bound to decide the complaints, applications, appeals and other proceedings in accordance with law. Merely because a particular decision is not as per choice of

particular litigant that cannot be a ground for making such frivolous applications. It is very easy for the litigants to make a wild allegation against a Judge behind his back which are not supported by any other material.

9] The application under Section 408 of Code of Criminal Procedure on the part of the present applicant is nothing but an attempt to pollute the stream of administration of justice. Such applications are required to be dealt with iron hand in order to inject the confidence in the mind of the litigants . Hence, the application is rejected with costs of Rs. 25,000/- . The costs should be recovered as arrears of land revenue.

**JUDGE**