

Nalawade

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 528 OF 2017

Mr.Amit Arvind Sand ...Applicant.
vs.
State of Maharashtra and anr. ...Respondents.

Mr. D. Talukadar for the Applicant.
Mr.VV.Gangurde, APP for the State.
Mr.S.R.Moray for the Respondent.

CORAM :A.S.GADKARI, J.
DATE : 21st March, 2018

P.C.

1. Heard the learned counsel for the applicant and the learned counsel appearing for respondent No.2. Perused the record.
2. By the present application the applicant is seeking transfer of proceedings bearing CC NO.628/SS/2016 filed by respondent No.2 for the offence punishable under Section 138 of the Negotiable Instruments Act pending on the file of Addl. Chief Metropolitan Magistrate, 58th Court, Bandra, Mumbai and proceeding bearing RCC No.871/2017 for the offence punishable under Sections-420,406, 465, 468, 170, 171, 507 read with 34 of the Indian Penal Code, pending on the file of Judicial Magistrate First Class, Cantonment Court at Pune

respectively, to one Court out of the said two Courts .

3. That, the cheque in question was issued by the applicant herein in favour of respondent No.2 was dishonoured and therefore, the said complaint is filed by respondent No.2 before the Court of Metropolitan Magistrate, 58th Court, Bandra, Mumbai. The record further indicates that, CR No.15/2017 under Sections-420,406, 465, 468, 170, 171, 507 read with 34 of the Indian Penal Code has been registered at the instance of applicant herein against the respondent Nos. 3 and 4. In the said crime, after completion of investigation the police have submitted charge sheet before the Court of competent jurisdiction and the same has now been numbered as RCC No.871/2017 and the same is pending on the file of Judicial Magistrate First Class, Cantonment Court at Pune

4. It is the contention of the applicant that, it is out of the said transaction mentioned in the CR No.15/2017 registered with Kondhwa Police Station, Pune, the applicant had issued the cheque in question to respondent No.2 which is the subject matter of CC No.628/SS/2016 pending on the file of Addl. Chief Metropolitan Magistrate, 58th Court, Bandra, Mumbai and it is on the basis of the summary of averments made by the

investigating agency in the charge-sheet of RCC No.871/2017, the present application for transfer of cases is filed.

5. It is to be noted here that, the complaint filed by respondent No.2 bearing CC No.628/SS/2016 has no direct nexus with the said RCC No.871/2017 except mentioning the name of the respondent No.2 herein. The offence under Section 138 of the Negotiable Instruments Act in CC No.628/SS/2016 is a separate and distinct offence alleged by respondent No.2 against the applicant and needs to be tried separately. Apart from the said fact, if the RCC No.871/20127 is transferred to Mumbai undue hardship and inconvenience would be caused to the witnesses therein including the police officers who have investigated the said crime.

In view thereof the present application being misconceived is accordingly dismissed.

(A.S.GADKARI, J.)