

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

Criminal Application [APPP] No.1717 of 2018
in
Criminal Application [APPLN] No.26 of 2018

Santosh s/o Mukundlal Agrawal

vs.

The State of Maharashtra, through P.S.O. Civil Lines, District Akola & another

*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

Court's or Judge's Orders

*Shri S.A. Mohta, Advocate for the Applicant.
 Shri V.P. Maldhure, A.P.P. for Non-Applicant No.1/State.*

CORAM : S.B. SHUKRE, J.
DATE : 23rd OCTOBER, 2018.

Heard Shri S.A. Mohta, learned Counsel for the applicant and Shri V.P. Maldhure, learned A.P.P. for the State.

By this application, the applicant has sought permission of this Court to serve non-applicant No.2 through Newspaper publication.

Prima facie, I am of the opinion that under the Code of Criminal Procedure, there is no such procedure of serving summons through paper publication and, therefore, I have doubt about the maintainability of this application.

Even otherwise, I find that what has been sought in the original application filed under Section 407 of the Code of Criminal Procedure is transfer of criminal case being R.C.S. No.252/2013 pending on the file of 2nd Judicial Magistrate First Class, Mangrulpir, District Washim to the Court of Chief Judicial Magistrate, Akola and secondly in this

complaint, non-applicant No.2 is not an accused or a party. If this is so, non-applicant No.2 would also not be the necessary party in this application. If the pendency of an another complaint filed by non-applicant No.2 against the applicant in Mangrulpir Court was the reason, which weighed with this Court earlier for transferring R.C.S. No.252/2013 to Mangrulpir Court, that was only confined to serve the convenience of non-applicant No.2 as it was the contention of parties that both the matter have some interconnection. But, now that cause seems to be over because the complaint filed by non-applicant No.2 against this applicant has been dismissed by Mangrulpir Court. The non-applicant No.2 is thus not in picture even on the ground of sympathy.

In view of above, I find that there is no need to make any further attempt for serving non-applicant No.2. The application is disposed of accordingly. The matter shall proceed further in accordance with law.

Stand over to 29th October, 2018.

JUDGE

**sandesh*