

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

CRIMINAL APPLICATION (APL) 858 OF 2016

(Nanaji Govinda Aade..vs.. The State, thr PSO, Gadchandur, Dist. Chandrapur)

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

Court's or Judge's orders.

Shri S.V. Sirpurkar, counsel for applicant.
Shri N.H. Joshi, APP for non-applicant.

CORAM: ROHIT B. DEO, J.

DATE: 25th July, 2018.

Heard.

2 The applicant is facing trial in Special Case 4 of 2015 for offence punishable under section 294, 506 of the Indian Penal Code read with section 3(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act before the Special Judge, Chandrapur.

3 The applicant instituted private complaint case 151 of 2015 in respect of the very same incident, which is pending before the Judicial Magistrate First Class, Rajura.

4 The complainant in Special Case 4 of 2015 is an accused in Summary Criminal Case 151 of 2015. The learned counsel for the applicant, inter-alia relying on the decisions of the Hon'ble Apex Court in *Sudhir and Others..vs.. State of Madhya Pradesh (2001)2 SCC 688*, *Nathilal and ors..vs.. State of UP and another, 1990 (Supp) SCC 145* and *State of Madhya Pradesh ..vs.. Mishrilal (dead) and ors, (2003)0 SCC 426* submits that both Special Case 4 of 2015 and Summary Criminal Case

151 of 2015 emanate from the same incident, they should be tried by the same Court. The applicant moved the Special Judge, Chandrapur vide application dated 8.11.2016 for calling of Summary Criminal Case 151 of 2015 from Judicial Magistrate First Class, Rajura and conducting simultaneous trials. This application is rejected by the order impugned on the premise that the Special Judge, Chandrapur did not have the jurisdiction to transfer the criminal cases. In view of the enunciation of law by the Hon'ble Apex Court, and the uncontroverted position that both the trials emanate from the same incident, there can not be any dispute that both the trials should be conducted by the same Court in accordance with the procedure laid down inter-alia in *Nathilal and ors..vs.. State of UP and another, 1990 (Supp) SCC 145*.

5 This Court sees no difficulty in issuing such a direction in exercise of inherent powers. The order impugned is set aside.

6 It is directed that Special Case 4 of 2015 and Summary Criminal Case 151 of 2015 shall be simultaneously tried by the Special Judge, Chandrapur in accordance with the procedure laid down by the Hon'ble Apex Court in *Nathilal and Ors..vs.. State of Up and another*. The application is allowed in the afore stated term.

JUDGE