

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 108 OF 2019

Shreyansh Motilal Gada Applicant
 Vs.
The State of Maharashtra & Anr. Respondents

Mr. Saiyed Sahil M. Nagamiya a/w Mr. Nilesh Gala for the Applicant.
Mr. R.M. Pethe, APP for Respondent no.1.
Mr. Krishna K. Holambe-Patil for Respondent no.2.

Coram : NITIN W. SAMBRE, J.
Date : 19th November 2019

P.C.:

1. Respondent-complainant, father-in-law of the non applicant no.1 in all these applications has initiated prosecution for an offence under Section 500 of Indian Penal Code, which is punishable with maximum sentence of two years imprisonment.
2. The complaints are pending at Thane Court, Explanade (Killa) Court, Bandra Court and Borivali Court.
3. The accused persons in all complaints are same, so also the complainants.

4. In the background of the pleading in said applications, relations between the parties and the witnesses cited in the proceedings, provisions of Section 407 of the Code of Criminal Procedure are invoked, praying for clubbing of these matters so as to avoid repetitions of recording evidence and contradictory findings. The submissions are that these four complaints be transferred to any of the Court where the said complaints are pending, as per convenience of the complainants.

5. This prayer is opposed by learned counsel for the complainant, non-applicant on the ground that there is no similarity of cause alleged in each of the complaint. As a consequence of the above, since the witnesses are from various parts of Thane and Mumbai, they will have to put to inconvenience including the complainant. Reliance is also placed on the cause, which is formed to be the basis for initiating such complaints. It is further prayed that based on each events, since different cause is alleged, the law contemplates of trying the complaints independently at the Courts to which they are assigned to.

6. Further submission is that a suit for damages is pending before the competent Civil Court at the place of the complainant. As such the prayer for rejection is made.

7. Considered the submissions. The fact remains that all these four complaints are pending before the respective courts and are initiated between one and same party and the nature of offences is also same, is not in dispute.

8. The only ground, which appears to be somewhat logical in support of the claim for transfer and clubbing is, the said complaints are based on the events, which have occurred at respective places, based on which the complaints are assigned to the respective Courts. However, said submission by itself will not act as a statutory embargo on the powers of this Court to decide a reasonable request for clubbing and trying the complaints at one and the single place at the convenience of the complainant as the same prima facie appears to be in the interest of the complainant also.

9. In the aforesaid background of facts, it will be appropriate in my opinion to club all these four complaints together and are directed to be tried at Esplanade Court (Killa Court), Court No. 28 Mumbai. As such, following order is passed :

O R D E R

i) The Complaints are clubbed together and be tried at Esplanade Court (Killa Court), Mumbai. The Senior-most Judge shall assign all these complaints to any of the Metropolitan Magistrate of Esplanade Court.

ii) All the applications are allowed in above terms

(NITIN W. SAMBRE, J.)