

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

**CRIMINAL APPLICATION (APPLN) NO. 70 OF 2019**

1) Ramkrishna Premchand Dubey,  
Presently (In Jail),  
Age 63 years, Occupation – Agriculturist,  
R/o Shyam Bazaar, Bardhahiya Bazaar,  
Khalilabd, Saint Kabir Nagar,  
Uttar Pradesh.

2) Satishchandra Bhagwatiprasad Mishra,  
Presently (In Jail),  
Age 62 years, Occupation – Agriculturist,  
R/o Durga Nagar, Bardhahiya Bazaar,  
Khalilabad, Saint Kabir Nagar,  
Uttar Pradesh.

.... **APPLICANTS**

**VERSUS**

1) State of Maharashtra,  
through its Secretary, Department of  
Home, Mantralaya, Mumbai – 32.

2) Crime Investigation Department,  
(Flying Squad) through its Additional  
Superintendent of Police, Pune,  
Maharashtra.

.... **NON-APPLICANTS**

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Mr. S.P. Bhandarkar, Counsel for the applicants,  
Mr. Vinod Thakre, Additional Public Prosecutor for the non-applicants.

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**CORAM : ROHIT B. DEO, J.**  
**DATED : 26<sup>th</sup> NOVEMBER, 2020**

**ORAL JUDGMENT :**

Heard Mr. S.P. Bhandarkar, learned Counsel for the applicants and Mr. Vinod Thakre, learned Additional Public Prosecutor for the non-applicants.

2. **Admit.** Heard finally by consent of the parties.

3. The applicants are invoking this Court's power under Section 407 of the Code of Criminal Procedure (Code) to seek transfer of trials in 26 crimes registered under the provisions of the Indian Penal Code and the Maharashtra Protection of Interest of Depositors Act (MPID Act) at police stations across the length and breadth of Maharashtra, to one Special Court. While the prayer in the application is to transfer the trials to the Special Court constituted for trying offence under the MPID Act at Nagpur, during the course of hearing the learned Counsel Mr S.P. Bhandarkar submitted that the trials may be transferred to any Special Court.

4. Facts are few and are broadly admitted. The applicants are arraigned as accused in as many as 26 crimes, the details of which are set out in paragraph 14 of the application, registered under the provisions of the Indian Penal Code and MPID Act at various police

stations in the State of Maharashtra.

5. Perusal of the affidavit in response filed on behalf of the State would reveal that it is not disputed that in every crime the allegations are same and that all the 26 crimes are investigated by Crime Investigation Department, Pune. Briefly, the allegations are that the applicants are the Directors of Galaxi Company and they induced as many as 30690 gullible persons to invest their hard earned money in the said company promising high interest/returns, which promise was made without there being any intention, muchless the means, to fulfill the same. The amount invested by the victims is said to be Rs.7,05,69,161/- (Rupees Seven Crore Five Lac Sixty Nine Thousand One Hundred Sixty One).

6. Perusal of the affidavit in response further reveals that the applicants are arrested in 16 crimes and the charge-sheet is submitted in 15 crimes.

7. The learned Counsel Mr. S.P. Bhandarkar would submit that the applicants, who in custody, are senior citizens who are suffering from various ailments. It would be unrealistic to expect the 26 trials to reach a logical end expeditiously, if the trials are permitted to proceed in

different Courts. *Au contraire*, transferring the 26 trials to one Special Court would enthrone an element of certainty in the process and would be to the advantage of the prosecution, the investigating agency and the witnesses. Mr. S.P. Bhandarkar makes a categorical statement that the applicants are ready and willing to bear the travelling and other permissible expenditure of the witnesses who may have to attend the transferee Court from various places in the State of Maharashtra. Mr. S.P. Bhandarkar would place heavy reliance on the decision of the Division Bench of this Court in ***Pramod Bhaichand Raisoni and others vs. State of Maharashtra and another (Writ Petition 2784/2018)***, and emphasize that in identical facts the Division Bench was pleased to direct transfer of trials in 77 crimes involving 42470 cited witnesses, to a single Special Court.

8. Mr. Vinod Thakre, learned Additional Public Prosecutor would oppose the prayer for transfer and the submission is that the interest of the witnesses is paramount. According to the learned Additional Public Prosecutor, the cited witnesses are poor and it would be extremely inconvenient for the witnesses to attend the hearing if all the trials are transferred to one Court. It is discernible from the affidavit in response that the only objection raised to the prayer for transfer of the 26 crimes to a single Special Court is that the witnesses are poor and would face

serious inconvenience.

9. *Pramod Bhaichand Raisonni and others vs. State of Maharashtra and another* is a complete answer to the opposition of the State. In identical facts, the Division Bench directed transfer of proceedings pertaining to 77 crimes involving 42470 cited witnesses to the Special MPID Court at Jalgaon. It would be fruitful to refer to paragraph 15 of the said judgment which reads thus :

*“15 From perusal of the First Information Report which arraigned the petitioners as accused, we have taken note of the fact that the allegations levelled relate to a similar transaction of the investors depositing their amount in the Multi-State Co-operative Credit Society on a promised return and failure to return the same amounts with the incentives as promised. All the office bearers of the Multi-State Co-operative Credit Society have been arraigned as accused and barring the amount involved in each FIR, the nature of transaction is identical. The provisions of MPID have been invoked against all the accused persons and the charge-sheets are filed in different Courts. Apart from this, the offences under Indian Penal Code have also been invoked and applied. Since there appears to be a commonality of action with which the accused are charged with, it would be in the interest of justice to assign all the matters to one Court of MPID which would also be in the interest of the prosecution, prosecuting agency and would also ensure fair and speedy trial to the present petitioners who are arraigned as accused. Except raising a technical objection based on the territorial jurisdiction of the Court, we do not find that the State is opposed to the clubbing of trials on any other ground. Trial of 77 cases pending before different MPID Courts is a time consuming process and if the trials are clubbed together, the number of witnesses cited can also be reduced to the bare minimum as it is not the volume of the evidence that is*

*brought on record is of relevance but it is the relevant evidence which should form the basis of any trial in determining the guilt of the accused. It is no doubt that while issuing a direction for clubbing all the offences and the trials, the Court is duty bound to evaluate whether each clubbing would cause prejudice to the accused persons or it would facilitate the trial by taking into consideration the facts involved in the matter. We are of the clear view that trial of 77 CRs by one Court of MPID would rather facilitate the trial and since the interest of several depositors are involved, we are of the clear view that trying all the offences at one place by the same Court would provide a solace to the complainants and speedy disposal of all the offences would assist in achieving the purpose underlying the MPID Act. Further, it would also avert a situation resulting into different final outcomes of distinct trials tried by separate MPID Court.”*

10. I am respectfully bound by the articulation of the Division Bench. It is evident, and rather undisputed, that the nature of the transaction in the 26 crimes is identical and there is commonality of allegations. Rather than causing prejudice to the prosecution or the witnesses, it would be in their interest if the trials are clubbed since clubbing may possibly reduce the number of witnesses to bare minimum. Clubbing would ensure speedy trial. It is not only in the interest of the applicants-accused that the trials be concluded expeditiously, the victims would have solace and closure.

11. In the totality of the circumstances, the applicants have made out a case for clubbing of the 26 trials. Since most of the crimes are registered at police stations in Vidarbha, it would be appropriate if the

trials are transferred to the Special Court constituted for trying offences under the MPID Act, at Nagpur.

12. The proceedings in the 26 crimes detailed in paragraph 1 of the affidavit in response filed on behalf of the State are transferred to MPID Court, Nagpur.

13. Charge-sheets are not submitted in certain crimes. No sooner are the charge-sheet submitted in all the 26 crimes, the Special Court shall assess the probable expenditure required to meet the travelling and other permissible expenditure of the witnesses and shall direct the applicants to deposit a tentative amount in the Court. This direction is issued in view of the readiness and willingness expressed by the applicants to bear the expenditure which may be incurred by the witnesses.

14. The Special Court shall endeavour to conclude the trials as expeditiously as possible.

15. The application is allowed in the afore-stated terms.

**JUDGE**

*adgokar*