

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

CRIMINAL WRIT PETITION NO.942 OF 2021

Mahfooz Alam Ansari

...Petitioner

Versus

State of Maharashtra

...Respondent

Mr. Sheikh Mohammed Anees, for the Petitioner.

Mr. A. R. Patil, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 10th AUGUST, 2021

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner has impugned the order dated 19th January 2021, passed by the learned Additional Principal Judge, City Civil and Sessions Court, Dindoshi, Mumbai.
3. The principal submission of the learned counsel for the petitioner is that the learned Additional Principal Judge, Dindoshi, Mumbai has not given reasons whilst passing the impugned order under Section 408 of Code of Criminal Procedure as contemplated under Section 412 of Code of Criminal Procedure.

4. Learned APP does not dispute the said fact.

5. Perused the papers. The order dated 19th January 2021, passed by the learned Additional Principal Judge, City Civil and Sessions Court, Dindoshi, Mumbai reads thus:-

*“Heard ld. adv. for applicant.
Perused authorities.*

As per the notification of Hon’ble High Court dt. 6/11/2019, No. A-1201/2019/2777 powers have been conferred on any Add. P. J. City Civil Court, Dindoshi to transfer cases u/s 408 of Cr.PC. Hence, the cases were transferred by this Court by using powers. There is no merit in the application. Hence, application is rejected. This app. be registered as Cr. M.A.”

6. No doubt, under Section 408 Cr.PC power vests with the Sessions Judge to transfer cases and appeal. However, under Section 412 Cr.PC whilst passing orders under Section 408, reasons are to be recorded. A perusal of the aforesaid impugned order shows that no reasons have been set out by the learned Judge, whilst transferring the case.

7. Considering the aforesaid, the petition is allowed and the impugned order dated 19th January 2021, passed by the learned Additional Principal Judge, City Civil and Sessions Court, Dindoshi, Mumbai, is quashed and set aside.

8. It is always open for the learned Additional Principal Judge to consider the transfer of the case, if so deemed necessary, in accordance with law.
9. It is made clear, that this petition has not been heard on merits.
10. The Petition is disposed of on the aforesaid terms
11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.