

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

Criminal Writ Petition No.814/2021

(Irfan A. Mannan Ghongade V State of Maharashtra and others)

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

Court's or Judge's Orders

Mr. Irfan A. Mannan Ghongade, Adv in person.
Mrs. Barabde, APP for resp. nos. 1 to 6.

CORAM: M.S. SONAK & PUSHPA V. GANEDIWALA, JJ.
DATE: 30-11-2021.

Heard Mr. Irfan A. Mannan Ghongade, the petitioner who
appears in person.

2. By this petition, the petitioner seeks for transfer of investigations under the First Information Reports dated 930/2021, 931/2021, and 934/2021 from Police Station Digras, District Yavatmal to the CB - CID (respondent no.5 herein).

3. The petitioner submits that he has apprehensions that the PSO of Digras Police Station will not fairly investigate the matter because the accused persons against whom the petitioner has filed FIR No.930/2021 are influential and will stall or derail the investigations. The record bears out that the said accused persons have also lodged FIR Nos.931/2021 and 934/2021 making the allegations against the petitioner herein. Therefore, this is a case of

complaints and counter complaints.

4. Based on the apprehensions of the petitioner, it will not be appropriate to transfer the investigations from one investigating agency to another. The transfer of investigations is a serious matter and unless a case of a high degree is made out, there is no question of entertaining such petitions. In the case of Divine Retreat Centre vs State of Kerala, reported in (2008) 3 SCC 542, the Hon'ble Supreme Court has clarified that the High Court by exercising powers under Article 226 of the Constitution of India can order the transfer of investigations if it is found to be actuated by malafides.

5. To make out such a case, there have to be proper pleadings and some evidence to back the same. Normally it is quite easy to make allegations but not so easy to make them out. The allegations in the Petition are quite vague and bereft of particulars. Based upon them, it would not be proper to transfer investigations.

6. In this case we note that the dispute is between two Advocates and that too, the issue of some legal fees. The Petitioner claims to have briefed the Advocate/s against whom he has now filed FIR in some land acquisition matters. The Petitioner claims

that he was assured fees amounting to Rs. 24,00,000 but was paid only Rs. 2,00,000 and the bulk were pocketed by the Advocates he had briefed. No doubt there are allegations of assault and counter assault. There is no reason to believe that this kind of matter cannot be or will not be investigated in accord with the law by the Police Station Officer where the FIRs have been registered. Besides, if ultimately the petitioner is dissatisfied with the investigation, it is not as if the petitioner is quite remediless. Under the provisions of the Code of Criminal Procedure, 1973 (Code), the petitioner, will have sufficient remedies. At this stage, however, based on the unilateral and mostly vague allegations it will not be proper to order the transfer of investigations.

7. Mr. Irfan A. Mannan Ghongade relies on the decision of the Division Bench of this Court in the case of **Sau. Rajni w/o Kailash Wakde vs The State of Maharashtra and others** decided on 29-10-2021. We have perused the said decision and we find that the fact situation in the said matter was not even remotely comparable to the fact situation in the present matter. Therefore, our decision in **Sau. Rajni Wakde** (supra) will not be of any assistance to the petitioner in the present case.

8. For the aforesaid reasons, we dismiss this petition but leave it open to the petitioner, in case the occasion arises, to resort to the remedies available to the petitioner under the Code.

9. At this stage, the petitioner seeks interim relief restraining the Investigating Agencies to file any charge-sheet, because he wishes to challenge this order, before the Hon'ble Supreme Court. According to us, the investigations are in progress, and in any case, no circumstances have been shown justifying the grant of such interim relief, now that we have declined to entertain this petition. Accordingly, even this request is not granted.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)

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