

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4227 OF 2017
WITH CRIMINAL APPLICATION NO. 4228 OF 2017

1. Mangesh Dattatray Khatu,
Age 55 years, Occu. Retired,
2. Mrs. Manisha Mangesh Khatu,
Age 52 years, Occu. Service Asst.Teacher,
3. Prathmesh Mangesh Khatu,
Age 21 years, Occu. Education,

All R/o. Champabai Niwas, Chendani Koliwada,
Kopari, Thane (E).

.. Applicants
(Original complainants)

Versus

1. State of Maharashtra
2. Anil Madan Jadhav,
Age 37 years, Occu. Business,
R/o. 59 Om Shanti Nagar,
Korit Road, Nandurbar

.. Respondents

...
Advocate for Applicants : Mr. Amar V. Lavte holding for
Mr. Amolkumar Samadan Wakode
APP for Respondent No.1/State : Mr. V. M. Kagne
Advocate for Respondent No.2 : Ms. A. S. Jadhav holding for
Mr. P. R. Katneshwarkar, Advocate
...

CORAM : S. G. MEHARE, J.

DATE : 25-07-2022

PER COURT :-

1. Heard the learned counsel for the applicant, the learned APP
for respondent No.1/State and the learned counsel for respondent
No.2.

2. On the report of applicant - Mangesh, a crime has been registered against respondent No.2 Anil for the offence punishable under Sections 324, 354 of the Indian Penal Code ("IPC") and on the report of respondent No.2 Anil, a crime has been registered against the applicants and other two co-accused for the offence punishable under Sections 143, 147, 148, 326, 452, 354, 504, 506 of the IPC. Both crimes have been registered with Police Station Nandurbar. The separate charge sheets have been filed against the applicant and respondent No.2. Both the Regular Criminal cases bearing No. 15 of 2016 and 100800 of 2015 are pending.

3. The learned counsel for the applicants would submit that applicant No.1 Mangesh was residing at Nandurbar only for the purpose of his service. Now he has been retired and shifted to Thane. Applicant No.2 Manisha is serving as Assistant Teacher at Thane. Applicant No.3 Prathmesh is taking education at Bengaluru. It is most inconvenient for the applicants to attend the trial on every date at Nandurbar due to the change of their residence. Besides the above, respondent No.2 has antecedents to his discredit. The applicants have apprehended danger to their life. Therefore, both these cases may be transferred from the Court of learned Judicial Magistrate, First Class, Nandurbar to the Court of learned Judicial Magistrate, First Class, Thane.

4. The learned counsel for respondent No.2 has vehemently

opposed the application contending that all the witnesses are from Nandurbar. The applicants did not have to attend the cases on every date; they may appear on the material dates only. If these cases are transferred from Nandurbar to Thane, it will be most inconvenient to the witnesses and respondent No.2, who are the residents of Nandurbar. It would be most expensive for the prosecution witnesses and respondent No.2 to attend the Court at Thane.

5. The learned APP has opposed the applications contending that the convenience of the accused is not a good ground for the transfer of the cases from one district to another. Most of the witnesses are from Nandurbar. If the matters are transferred to Thane, it will be difficult for the prosecution to secure the presence of witnesses. The witnesses would have to journey from Nandurbar to Thane. The witnesses should not suffer inconvenience for the convenience of the accused. Hence, both applications may be rejected.

6. There appears a substance in the arguments of the learned counsel for respondent No.2 and the learned APP. If both cases are transferred from Nandurbar Court to the Thane Court, the witnesses may be unnecessarily harassed and have to attend the Court at Thane. The convenience of witnesses is more important than the convenience of the applicants/accused.

7. Be that as it may, nowadays, each Court in the State of Maharashtra has a Video Conferencing (VC) facility available. On each date, the presence of the applicants may not be required. The applicants may seek exemption from their appearance. They may attend the case if required by the Court through VC from Thane Court to Nandurbar Court. For the convenience of the applicants, the inconvenience of the witnesses cannot be caused.

8. For the reasons stated above, this Court does not find force in the applications. Hence, the applications stand dismissed.

(S. G. MEHARE)
JUDGE

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