

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

CRIMINAL APPLICATION NO. 346 OF 2021

Ravindra M. Dhekane ...Applicant
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Omkar Nagvekar i/b Ms. Prabha Badadare for the Applicant

Ms. Anamika Malhotra, A.P.P for the Respondent No.1–State

Mr. Rohan Surve for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 1st MARCH 2022

P.C. :

1 Heard learned counsel for the parties.

2 At the outset, learned counsel for the respondent No. 2 states
that he will file his vakalatnama within one week from today.

3 Learned counsel for the applicant submits that the applicant be
exempted from appearing before the learned Sessions Court, Chiplun in

Criminal Appeal No. 9/2020, as the applicant is a senior citizen and is suffering from various ailments. He also prays for transfer of Criminal Appeal No. 9/2020, pending before the learned Sessions Judge, Chiplun, to the Sessions Court, Pune.

4 Learned counsel for the applicant states that pursuant to the applicant's conviction under Section 138 of the Negotiable Instruments Act, the applicant has preferred an appeal being Appeal No. 9/2020. He submits that the learned Sessions Judge is insisting on the presence of the applicant on every date, though technically, his presence is not required at the time of hearing criminal appeal, except may be, at the time of pronouncement of judgment. He further submits that the applicant is a senior citizen and has various ailments; has undergone surgery; angioplasty and also has a spinal cord problem. He further states that the applicant is required to travel 400 kilometers to and fro, to attend one date before the Sessions Court.

5 Learned counsel appearing for the respondent No. 2 states that there is no specific order directing the applicant to remain present and as such the allegations made by the applicant are baseless. He further states

that even otherwise, respondent No. 2 has no objection if the applicant does not remain present on the dates given by the Appellate Court, except as and when directed by the Appellate Court. He further submits that respondent No. 2 will not insist on the presence of the applicant. He submits that infact, the learned Sessions Judge is unable to proceed with the hearing of the said Criminal Appeal, due to the repeated adjournments sought by the applicant.

6 Learned counsel for the applicant submits that he will not seek any adjournments, except in exceptional circumstances and that he will proceed with the hearing of the criminal appeal filed by the applicant on its own merits, in the absence of the applicant.

7 Having heard learned counsel for the applicant, no ground is made out for transfer of Criminal Appeal No. 9/2020 pending before the Sessions Court, Chiplun, to Sessions Court, Pune.

8 It is also made clear that the presence of the applicant is not necessary during the hearing of the appeal, considering that he is represented by an advocate. Learned counsel for the applicant states that the

applicant's lawyer in the Appellate Court will proceed with the appeal and will not seek adjournments, except in exceptional circumstances. Statement accepted.

9 Accordingly, the learned Sessions Judge to proceed with the hearing of the Criminal Appeal. Since the Criminal Appeal is of the year 2013, the learned Sessions Judge Chiplun, to dispose of the said Criminal Appeal on its own merits in accordance with law, within four months from the date of receipt of this order.

10 Application is disposed of in the aforesaid terms.

11 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.