

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

CRIMINAL APPLICATION (APPLN) NO.36 OF 2021

Sagar S/o Vinod Katole and others

Versus

State of Maharashtra, through P.S.O., P.S. Selu, Tq. Selu, Dist. Wardha and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Anuj Gandhi, Adv. h/f Shri S.P. Bhandarkar, Adv. for the
applicants.

Shri M.J. Khan, A.P.P. for the non-applicant No.1/State.

CORAM : ANIL S. KILOR, J.

DATED : 23/03/2022

1. The applicants are seeking transfer of Sessions Case No.45 of 2020, from Sessions Court, Wardha to Sessions Court, Nagpur. The applicants are the accused in Crime No.31 of 2020, dated 24.01.2020, registered with the Police Station Selu, District Wardha, for the offence punishable under Sections 397, 294 and 427 of the Indian Penal Code.

2. Heard Shri Anuj Gandhi, learned counsel for the applicant and Shri M.J. Khan, learned APP for the State. None for the non-applicant No.2.

3. The applicants are seeking transfer of Sessions Case No.45 of 2020 from Wardha to Nagpur on the ground that the complainant is a lawyer and he is highly influential because of which no lawyer is accepting the brief of the applicants. It is further submitted that the complainant is

using his influence on the Police as well and therefore, there is an apprehension in the minds of the applicants that there would be no fair trial, if it is conducted at Wardha.

4. On the other hand, Shri Khan, learned APP submits that if no lawyer is accepting the brief of the applicants, because the complainant is an Advocate, the applicants could get a lawyer through Legal Aid. He further submits that even there are lawyers from outside Wardha, who can conduct the trial at Wardha.

5. He further submits that as far as the allegations that the complainant is using his influence on the Police, it is submitted that the allegations are vague and there is no material available on record in support of the said contentions, except the complaint, which was made after one year from the date of filing of First Information Report (FIR).

6. To consider the rival contentions, I have perused the record.

7. In the application, the applicants have not given the details about the lawyers to whom the applicants had approached to and requested to accept their case. There is not a single name mentioned in the application of a lawyer, who has refused to accept the case of the applicants on the ground that the complainant is the lawyer.

8. Moreover, I find substance in the submission of the learned APP that an assistance of a lawyer can be provided to the applicants through Legal Aid. There is no statement made in the application that any attempt was made by the applicants to seek assistance through Legal Aid. There is no statement in the application that the applicants tried to engage lawyers outside from Wardha, but they refused to accept the case of the applicants.

9. As far as the allegations that the complainant is using his influence on the Police and therefore, there is no likelihood that trial would be conducted in the fair manner, these allegations are vague and no details are given in support of such allegations.

10. In the aforesaid circumstance, as no permissible ground is made out under Section 407 for transfer of Sessions Case No.45 of 2020 from Wardha to Nagpur, I am of the opinion that the present application needs to be rejected. Accordingly I pass the following order:

The application is **rejected**.

[ANIL S. KILOR, J.]