

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

CRIMINAL APPLICATION NO.74 OF 2023

Dadalal Shankarlal Patil ...Applicant
Versus
The State of Maharashtra & Ors ...Respondent

Mr. Akash K. Kotecha, Advocate for Applicant.
Mr. Arfan Sait, APP for State/Respondent No.1.
Mr. Ajit Dilip Hon, Advocate for Respondent Nos.2 to 5.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th OCTOBER 2023

PC :

1. This Application is for transfer of Criminal Revision Application No.21/2021 on the file of Additional Sessions Judge, Kopargaoon, District Ahmednagar to the file of Additional Sessions Judge at Malegaon, District Nashik.

2. The Applicant is the original complainant who had approached the Magistrate's Court at Manmad. At the first instance, he had filed his complaint before the Judicial Magistrate First Class, (Railway) Manmad. The learned Magistrate vide his order dated 7th June 2011 had directed investigation under Section

156(3) of Cr.P.C. The matter travelled upto this Court at Aurangabad Bench by way of Criminal Writ Petition No.620/2017. Vide order dated 5th March 2019, the matter was remanded back to the JMFC, Manmad Railways Court to follow the procedure as per Cr.P.C. After the matter was remanded back, by an administrative order, the complaint filed by the Applicant was transferred to the Court of JMFC, Manmad City. The matter proceeded further and ultimately on 3rd March 2021, the JMFC, Manmad passed an order below Exhibit-1 in R.C.C. No.122/2019, issuing process against the Accused Nos.1 to 4. At the same time, the complaint was dismissed against the original Accused Nos.5 and 6 i.e., against Rajendra Kapgate and Pankaj Patil. The Respondent Nos.2 to 5 in this Application are the original Accused Nos.1 to 4.

3. These Respondents i.e., the Respondent Nos.2 to 5 who were the original Accused No.1 to 4 filed Criminal Revision Application No.21/2021 before the Additional Sessions Judge at Kopergaon on 5th August 2021. On the other hand, the Applicant herein preferred Criminal Revision Application No.50/2021 in the

Court of Additional Sessions Judge at Malegaon, challenging the dismissal of the complaint against the original Accused Nos.5 and 6. Thus, as of today, the same order is challenged in two different Sessions Courts in two different Sessions Divisions. Therefore, the Applicant has preferred this Application for transfer of the Revision Application pending before the Kopergaon Court to the Court at Malegaon.

4. Learned Counsel for the Applicant submitted that the incident is dated 27th September 2010. The Applicant's son was found dead on railway track. Since then, the Applicant has been trying hard to get justice for his son. He submitted that the Court at Kopergaon does not have the Appellate jurisdiction or Revisional jurisdiction against the order passed by the J.M.F.C. at Manmad City.

5. Learned Counsel for the Respondent Nos.2 to 5 opposed these submissions. According to him, the Additional Sessions Judge at Kopergaon gets jurisdiction to hear the Revision Application. He submitted that the dead body was found within

the jurisdiction of Kopargaon Sessions Division and, therefore, the Kopargaon Court gets jurisdiction to decide the Application.

6. I have considered these submissions. The order is passed by the J.M.F.C., at Manmad. The Revisional jurisdiction against the order passed by the such Court is admittedly with the Additional Sessions Judge at Malegaon. Therefore, the Applicant has rightly filed Criminal Revision Application No.50/2021, before the Additional Sessions Judge at Malegaon. On the other hand, the order passed by the J.M.F.C. at Manmad could not be challenged before the Additional Sessions Judge, Kopargaon, therefore, the Criminal Revision Application 21/2021 can not be proceeded with before the Additional Sessions Judge, Kopargaon. It is, therefore, necessary to transfer the said Revision Application before the Additional Sessions Judge, Kopargaon to the Additional Sessions Judge at Malegaon. The contention of the Respondent Nos.2 to 5 that the alleged incident had not taken place within the jurisdiction of J.M.F.C., Manmad City, is left open, which can be decided by the Additional Sessions Judge at Malegaon. At this stage, I am not making any observation on merits of the matter. I

am only deciding the jurisdiction of Revisional Court which can decide the Revision Application against the order passed by J.M.F.C. at Manmad. All the contentions on merits of the matter are specifically left open to be decided in both these Revision Applications.

7. Hence, the following order:

O R D E R

- i) The Criminal Revision Application No.21/2021 filed by the Respondent Nos.2 to 5 herein before the Additional Sessions Judge, Kopergaon shall be transferred on the file of the Additional Sessions Judge at Malegaon.
- ii) The said Revision Application shall be decided along with the Criminal Revision Application No.50/2021 which the present Applicant has already preferred before the Additional Session Judge at Malegaon. It is made clear that all the contentions on merits are left open. The learned

Additional Sessions Judge at Malegaon shall decide both these Revision Applications in accordance with law. Both these Revision Applications be decided as far as possible within a period of three months from today.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)