



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 150 OF 2024

1. Pradip s/o Subhash Kathmande
 2. Madhav s/o Bhivrao Thombare
 3. Dattatraya s/o Mahadev Bhise
 4. Bhagwan s/o Shriram Arsul
- ...Applicants

versus

1. The State of Maharashtra
2. The Principal Secretary
Home department.
3. The Public Prosecutor/
Government Pleader
High Court, Bench at Aurangabad
4. The Investigating Officer
Paithan Police Station
5. The Investigating Officer
Kranti Chowk Police Station
6. The Investigating Officer
Jawahar Nagar Police Station
7. The Investigating Officer
City Chowk Police Station
8. The Investigating Officer
Kallamb Police Station
9. The Investigating Officer
Tuljapur Police Station
10. The Investigating Officer
Anandnagar Police Station
Osmanabad
11. The Investigating Officer

Washi Police Station

12. The Investigating Officer
Pathri Police Station

13. The Investigating Officer ...Respondents
Ausa Police Station

...
Advocate for Applicant : Mr. Madake Datta A.
APP for Respondents: Mr. Mukesh K. Goyanka

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CORAM : SHIVKUMAR DIGE, J.
DATED : 14th JUNE, 2024.

PER COURT :-

1. By this application, the applicants are seeking transfer of M.P.I.D. cases registered against them, pending before the learned Sessions Judges at Aurangabad, Parbhani, Latur, Osmanabad and Beed, to the court of competent jurisdiction at Beed.

2. It is the contention of learned counsel for the applicants that all the applicants were working in a sugar factory i.e. Shambhu Mahadev Sugar Factory at Hawargaon, which was run by the main accused viz. Dilip Shankar Apet. The applicant No.1 was working as Agricultural Officer, applicant No.2 was working as Watchman, applicant No.3 was working as Store Keeper and applicant No.4 was working as clerk in the said sugar factory. The applicants are not concerned with the Shubh Kalyan Multi State Co-operative Society and its affairs. Learned counsel further submitted that the names of

the applicants were initially not appearing in the F.I.R. and total 24 crimes have been registered against the applicants in various districts of Marathwada region. Learned counsel further submitted that accused No.1 is died. Learned counsel further submitted that all the applicants have been released on bail. The Head Office of Shubh Kalyan Multi State Co-operative Society, Hawargaon is in Beed district. Therefore, for avoiding conflict decisions, the applicants seek transfer of all proceedings pending in other districts to the court of learned Sessions Judge at Beed. Learned counsel further submitted that nature of allegations against all the applicants are same and for speedy disposal of the cases, all cases be transferred to the Sessions Court at Beed. If all the cases are transferred at one place, it would save time of the court and it would be convenient for all the parties. Hence, requested to allow the application.

3. Learned counsel for the applicants relied on the judgment of this Court in the case of **Pramod Bhaichand Raisonni and Others vs. The State of Maharashtra and Another**, reported in 2019 ALL MR (Cri.) 3784 and the order of the Hon'ble Supreme Court in the case of **Ramesh Nagnath Kadam vs. State of Maharashtra and others** (Writ Petition (Cri.) No. 245 of 2021, decided on 16.09.2021).

4. It is the contention of the learned A.P.P. that the application

is not maintainable as there are total 16 accused and out of those 16 accused, only four accused/applicants have filed this application. Learned A.P.P. further submitted that in all 24 offences are registered against the applicants in different police stations and the said offences are being investigated by different investigating officers attached to the concerned police stations. The allegations against the applicants are that they have duped poor depositors with promise that they will pay handsome interest on their deposit amounts. All the depositors are from poor sections of the society. If these matters are clubbed at one place, it would cause harassment to the depositors, investigating officers and the witnesses. Moreover, for the convenience of the accused persons, inconvenience cannot be caused or pain cannot be given to the depositors, investigating officers and the witnesses.

5. Learned A.P.P. further submitted that the judgment cited by the learned counsel for the applicants in the case of **Ramesh Nagnath Kadam (supra)** is not applicable to the facts of this case, as the said case relates to Prevention of Corruption Act. So also in the case of **Pramod Bhaichand Raisonni (supra)** the investigation was done by the one investigating agency as per the directions of this Court. Thus, the ratio laid down in both the aforesaid cases would not be applicable to the present case. Hence, the learned A.P.P. prayed

to reject the application.

6. I have heard both learned counsel. The applicants are seeking transfer of cases pending against them in five districts to one district. At this stage, it would be apposite to refer to Section 407 of Cr.P.C. which reads as under:-

“407. Power of High Court to transfer cases and appeals (1)

Whenever it is made to appear to the High Court-

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise; or

(c) that an order under this section is required by any provision of this Code, or will tend to the general convenience of the parties or witnesses, or is expedient for the ends of justice, it may order-

(i) that any offence be inquired into or tried by any Court not qualified under sections 177 to 185 (both inclusive), but in other respects competent to inquire into or try such offence;

(ii) that any particular case, or appeal, or class of cases or appeals, be transferred from a criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) *that any particular case be committed for trial to a Court of Session; or*

(iv) *that any particular case or appeal be transferred to and tried before itself.*

(2) *The High Court may act either on the report of the lower Court, or on the application of a party interested, or on its own initiative:*

Provided *that no application shall lie to the High Court for transferring a case from one criminal Court to another criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him."*

7. Sub clause (c) of sub-section (1) of Section 407 of Cr.P.C., as quoted above, states that the transfer of case can be done to consider the general convenience of the parties or witnesses, or is expedient for the ends of justice. In present case, it appears that in all 24 cases have been registered against the applicants in five districts in different talukas of Marathwada region. The said offences have been investigated by the different investigating officers. The first informants and witnesses are different in each offence and they reside at different places in the respective talukas. The distance between all these districts are more than 100 kilometers. So it would not be convenient to direct the complainants, witnesses and the investigating officers to go to one district. Moreover, there are total

16 accused in the said crimes. Out of those 16 accused, only 4 of them have filed the present application. The other accused persons have not been added as respondents in this application. Hence, this application is not maintainable.

8. I have also gone through the case laws cited by the learned counsel for the applicants. It appears that the facts involved in the cited cases and the present case are different, as in the case of ***Ramesh Nagnath Kadam (supra)***, the facts relate to the offences registered under the provisions of Prevention of Corruption Act. So also in the case of ***Pramod Bhaichand Raisonni (supra)*** the investigation was done by one agency as per the order passed by this Court.

9. Considering the aforesaid reasons, I pass the following order:-

O R D E R

Criminal application is rejected.

(SHIVKUMAR DIGE, J.)

rlj/