



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 CRIMINAL APPLICATION NO. 4396 OF 2023

Sanjay Sopan Ambre

VERSUS

Ramnath Savleram Datir and others

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Advocate for Applicant : Mr. Dixit Satyajeet S

APP for Respondents: Mr. R.S. Shinde h/f Mr. Vijay P. Latange

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CORAM : SHIVKUMAR DIGE, J.
DATED : 5th SEPTEMBER, 2024.

PER COURT :-

1. By this application, the applicant is seeking transfer of proceeding of R.C.C. 105 of 2015 pending before the J.M.F.C. Akole, district Ahmednagar for the offences punishable under sections 405, 415, 420, 468, 323, 504, 506 of I.P.C. to the learned Sessions Judge, Nashik to be tried with Special Case No. 3 of 2014 (M.P.I.D.).

2. It is the contention of the learned counsel for the applicant that one Eknath Dattatraya Khairnar has lodged F.I.R. bearing No. 154 of 2014 with Adgaon police station, Nashik against 11 accused persons. In the said F.I.R., it is alleged that the accused persons had introduced a company under name and style as K.B.C. Multitrade Private Ltd. (for short "Company"). The accused persons and their agents had advertised their policies in the newspapers as well as

with other mediums and assured that if the investments are made with their Company, the investors would get five times amount of their respective investment. The accused persons have deceived their investors for Rs.97,09,200/-. The informants in those F.I.Rs. Were investors, therefore, they lodged the complaints. After receiving the complaints, the police filed charge sheet against those 11 accused persons. The matter is pending before the Special Judge, Nashik. Learned counsel further submitted that the applicant is one of the victim of the said company. The respondents herein are agents of the said company and on their say, the applicant has invested the amount in the said company but the invested amount of the applicant has not been returned. The applicant had filed complaint against the respondents but it was not entertained by the police. Hence, the applicant has filed private complaint under Sections 405, 415, 420, 468, 323, 504, 506 of I.P.C. before the trial court. The said matter is fixed for evidence before charge. Learned counsel further submitted that as the case against the Directors and the employees of the said company is pending before the Sessions Court at Nashik, the private complaint filed by the applicant be transferred to the same Court, as it would be convenient for the Sessions Court to decide the matter, as the allegations levelled by the applicant and informant in those cases are same. Hence, requested to allow the application. He relied on the case of **Pal**

Alias Palla vs. State of Uttar Pradesh, (2010) 10 SCC 123 and the case of ***Khetrabasi Samual Etc. Vs. State of Orissa***, (1969) 2SCC 571.

3. It is the contention of learned counsel for the respondents that the applicant or the respondents are not parties in the case pending before the Sessions Court at Nashik. The respondents are not arrayed as accused in the said proceeding. In the said proceeding, recording of evidence has been started whereas in the private complaint filed by the applicant, yet evidence has not been started. Even charges have not been framed. Considering this fact, it is not necessary to transfer the proceeding as prayed for and requested to reject the application.

4. I have heard both the learned counsel. The applicant is praying for transfer of private complaint filed by him pending before the J.M.F.C. Akole to the Sessions Court at Nashik where the matter is going on against the directors and employees of the said company. It is significant to note that the respondents are not arrayed as accused in the said proceeding. In the proceeding pending before the Sessions Court at Nashik, the evidence of the witnesses have been recorded and in the private complaint filed by the applicant, yet the charges have not been framed against the respondents. Though the applicant is stating that offence mentioned in the complaint and matter pending before the Sessions Court, Nashik are out of the

same transaction but the private complaint of the applicant is pending before the J.M.F.C. whereas the Sessions case is filed on the basis of the police report in which the evidence of some witnesses have been recorded. Considering this fact, the prayer of the applicant cannot be entertained. I have gone through the case laws filed by the applicant. The facts of the cited cases and the case at hand are different as in the present case, the complaint filed by the applicant is at initial stage where the applicant seeks transfer in which evidence of some witnesses have been recorded. If this matter is transferred there, it will stall the proceeding of the matter pending before the Sessions Court. In the Sessions case M.P.I.D. is applied and in private complaint M.P.I.D. cannot be applied and it cannot be tried with the said matter. The private complaint filed by the applicant is of the year 2015, if the direction is given to the learned J.M.F.C. where the complaint of the applicant is pending to expedite the trial, it would suffice. Hence, I pass the following order:-

O R D E R

- I. The application is dismissed.

- II. The learned Judicial Magistrate, First Class, Akole, District Ahmednagar is directed to decide the complaint R.C.C. No. 105 of 2015 filed by the applicant, as early as possible on its own merit.

(SHIVKUMAR DIGE, J.)