

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.294 OF 2024

Amit Shyam Pendhari .. Applicant
Versus
State of Maharashtra and Ors. .. Respondents

WITH
CRIMINAL APPLICATION NO.295 OF 2024

Ramakant Ranjan Khambe .. Applicant
Versus
State of Maharashtra and Ors. .. Respondents

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- Mr. Amit A. Katarnaware a/w. Ms. Pooja Dongre and Mr. Aditya Katarnaware, Advocates for Applicant in both Applications.
 - Ms. Dhanalakshmi Krishnaiyer, APP for Respondent No.1 - State of Maharashtra.
 - Ms. Ashwini Achari a/w. Mr. Taraq Sayed, Advocates for Respondent Nos.2, 3 and 4 in Criminal Application No.295 of 2024.
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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 18, 2024

P.C.:

1. Heard Mr. Katarnaware, learned Advocate for Applicant in both Applications; Ms. Krishnaiyer, learned APP for Respondent No.1 - State of Maharashtra and Ms. Achari, learned Advocate for Respondent Nos.2, 3 and 4 in Criminal Application No.295 of 2024.

2. After hearing Mr. Katarnaware, learned Advocate for Applicant in both Applications and Ms. Krishnaiyer, learned APP for Respondent No.1 - State of Maharashtra on 16.10.2024, the following order was passed:-.

“1. Heard Mr. Katarnaware, learned Advocate for Applicant in both Applications and Ms. Krishnaiyer, learned APP for Respondent No.1 - State of Maharashtra.

*2. By virtue of the order dated 06.09.2024, this Court had considered the submissions made by both the parties and also recorded their respective submissions. Thereafter this Court has passed a specific order, inter alia, calling for reports from Vasai Court and Panvel Court. Both the reports have been received by this Court. There is a further order passed by my predecessor which acknowledges the receipt of the said reports. The report of Vasai Court is dated 03.10.2024 received from Incharge District Judge-2 and Additional Sessions Judge to Vasai whereas report from Panvel Court dated 04.10.2024 is received from District Judge -1 and Additional Sessions Judge, Panvel. Report from Vasai Court categorically states that no video recording facility is available in that Court. However, the report of Panvel Court specifically states that the facility for video recording of proceedings under Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short **‘the said Act’**) is infact made available by the Social Welfare Department of State of Maharashtra in two Courts at Panvel.*

3. Once this is the position and the imprimatur of decision of this Court dated 13.03.2024 passed in Criminal Appeal No.911 of 2019 and questions referred to the said Court having been answered therein in order to achieve effective implementation of Chapter IV of the said Act which is meant to protect right of the victim, it would be absolutely necessary to ensure video recording in the proceedings even though the said proceedings are in open Court and it will have to be done accordingly.

4. In that view of the matter, there can be no reason or impediment to allow both Applications for transfer of proceedings to the Panvel Court.

5. Ms. Krishnaiyer appears for Respondent – State of Maharashtra, though it is seen that on a previous occasion i.e. 06.09.2024, a different APP had appeared. She would submit that she has heard this Court passing the order and would submit that the representative Inspector is present from Valiv Police Station, Vasai alongwith instructions to brief her. She would submit that she requires time to consider the order dated 06.09.2024 and decision of this Court dated 13.03.2024 in Criminal Appeal No.911 of 2019 as also the twin reports received so that she will be in a better position to apprise the Court. The request made by Ms. Krishnaiyer is granted and allowed. However pendency of these proceedings filed in August-2024 is nothing but an unnecessary protraction and this shall not be allowed to happen by this Court. Hence these two Applications shall be heard and disposed on the next adjourned date after hearing the learned APP.

*6. Stand over to **18th October, 2024**. To be placed under the caption ‘First on Board’.”*

3. Today, Ms. Krishnaiyer, learned APP for Respondent No.1 - State of Maharashtra would attempt to address the Court on the merits of the matter which in my opinion is absolutely irrelevant. The only issue before the Court is with respect to availability of facility of Video Recording in the designated Court in which the trial is to take place.

4. Admittedly by report dated 03.10.2024, the learned Incharge District Court-2 and Additional Sessions Judge, Vasai has informed this Court that such facility is not available in that Court. Simultaneously, under the directions of the Court, the learned District Judge-1 and Additional Sessions Judge, Panvel has filed his report dated 04.10.2024 informing the Court that the said facility for Video Recording of proceedings under Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short '**the said Act**') is infact made available by the Social Welfare Department of the State of Maharashtra in two Courts at Panvel.

5. Adhering to the said report and availability of facility in the two Courts at Panvel, there should be no impediment in allowing the transfer of proceedings in the present Criminal Applications for the purpose of trial so that the same can be video recorded in accordance with law, as also in accordance with the decision of this Court in Criminal Appeal No.911 of 2019.

6. In that view of the matter, both the Criminal Applications

namely Criminal Application No.294 of 2024 and Criminal Application No.295 of 2024 stand allowed in terms of prayer clause (a) as pleaded in both the Criminal Applications. For the purpose of convenience, prayer clause (a) in both the Criminal Applications is reproduced below:-

(i) Criminal Application No.294 of 2024:-

“a. This Honorable court is pleased to pass an appropriate order under section 447 of the BNSS for transferring the present Criminal Miscellaneous Application No. 79 of 24, 80 of 24, 81 of 24, 82 of 24 pending before Ld. Session Judge Vasai to the Panvel Sessions Court as Panvel Sessions Court also have the facility of video recording of present proceedings and for expediting the proceedings in the present Criminal Misc. Applications.”

(ii) Criminal Application No.295 of 2024:-

“a. This Honorable court is pleased to pass an appropriate order under section 447 of the BNSS for transferring the present Criminal Miscellaneous Application No. 98 of 2024 pending before Ld. Session Judge Vasai to the Panvel Sessions Court as Panvel Sessions Court also have the facility of video recording of present proceedings and for expediting the proceedings in the present Criminal Misc. Applications.”

7. Mr. Katarnaware, learned Advocate for Applicant would seek further directions from this Court with respect to further steps to be taken pursuant to transfer. Undoubtedly, the transferee Court i.e. Panvel Court who will be seized with the matters will be in the knowhow and the process of taking further steps for issuing appropriate directions, as required strictly in accordance with law in the transferred proceedings.

8. Needless to state that transferred proceedings shall be heard expeditiously by the learned Court strictly in accordance with law. Both the Courts shall act on a server copy of this order without insisting on a certified copy of this order for the purpose of transfer and re-registration of the transferred proceedings which shall effected immediately within one week from the presentation of a server copy of this order before both the Courts by the Applicants.

9. With the above directions, both the Criminal Applications stand allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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