

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

CRIMINAL REVISION APPLICATION NO.250 OF 2024

SATISH
RAMCHANDRA
SANGAR

Digitally signed by
SATISH RAMCHANDRA
SANGAR
Date: 2024.07.30
10:20:49 +0530

Sanjay Chandrakant Salunkhe

Age : 50 Years, Occu. : Business,
Residing at : B-402, Prestige Garden,
Thane Mahanagarpalica Bhavan Marg,
Panchpakhadi, Thane : 400 601.

...Applicant

Versus

1. **State of Maharashtra**

(Through its Officers and Government
Pleader, High Court, Bombay).

2. **The Registrar,**

The Thane District & Sessions Court,
Thane.

...Respondents

Mr.G.S.Patil:-	Advocate for Applicant.
Ms.Sangita E. Phad:-	APP for Respondents – State.

CORAM : S. M. MODAK, J.

DATE : 24th JULY 2024

P. C. :-

1. Heard learned Advocate for the Applicant – Accused No.1.

2. He is charge-sheeted in a Summary Criminal Case No.6858 of 2020. He is having two grievances. They are:-

(a) While recording the plea on 20th October 2022 (Page

No.92), his signature is only taken and it is not explained to him and the learned Judge has not signed on the plea. That is why, he has requested the learned Judge to hear him again. The said Application is dated 2nd October 2023. (Page No.93-94 ; Exhibit No.9).

- (b) He has made a complaint to the learned Principal District Judge on 23rd October 2023 (Page No.95) for conducting an enquiry against the concerned persons for not issuing him a certified copy.

3. Learned Registrar, District Court – Thane informed him as per the letter dated 21st December 2023 (Page No.100) to file a transfer Application in a prescribed format. That is how, he filed Criminal Misc. Application No.2 of 2024 (Page No.101) under the provisions of Section 408 of the Code of Criminal Procedure, 1973 (“Cr.P.C.”). Learned Principal District Judge as per the order dated 3rd January 2024 (Page No.112) was pleased to reject the Application. The delay in issuing certified copy was not considered as a sufficient apprehension and that is why, the transfer Application was rejected. The legality of this order is challenged by way of this proceeding.

4. Learned Advocate for the Applicant tried to impress upon me as to how, the prejudice is caused to his client for not following the procedure while recording the plea. In fact, the subsequent Judge has

signed on that memorandum. It is on Page No.92. It is dated 3rd October 2023. The present learned Judge has made an endorsement ***“signed in view of order passed below Exh.9”***. When a query is put, learned Advocate submitted that in fact, there is no order passed below Exhibit-9. Today, he is not having hard copy. He may verify whether such order is passed on any part of the said Application.

5. According to him, there has to be a ‘*de novo trial*’. He relied upon the observations in case of ***Jitender Alias Kalle v/s. State***¹ wherein it is observed in Para No.40 that:-

*“In a civil matter, the successor Judge can pronounce a judgment which was written by the Predecessor but not pronounced. **This is not permissible in a criminal case**”.*

6. Transferring a case on an Administrative Side is one issue and causing a prejudice for not following the procedure while recording a plea under Section 251 of Cr.P.C., is another thing. In this Application, **this Court cannot decide, whether there is any lacuna in recording the plea. The remedies are available to the Applicant.**

7. Learned Advocate, after taking instructions, seeks leave to withdraw this proceeding with liberty to file an appropriate proceeding

¹ 2012 SCC OnLine Del 5616

thereby challenging the procedure followed while recording the plea on 20th October 2022. Hence order :--

ORDER

- (a) This **Application is disposed of as withdrawn.**
 - (b) Liberty is granted to take appropriate proceedings.
 - (c) If, there is a delay, the Applicant may apply for condonation of delay and let it be considered on merits.
8. Copy be send to the Court of Principal District Judge, Thane.

[S. M. MODAK, J.]