

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO.855 OF 2025

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| Ruma Begum Anwar Husen Lashkar | ...Petitioner |
| <i>Versus</i>                  |               |
| The State of Maharashtra       | ...Respondent |

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Mr. Fakruddin Khan, for the Petitioner.  
Ms. Anuja Gotad, APP, for the Respondent-State.  
Mr. Nagesh Pisal, PSI, Kasarwadvali Police Station, Thane City,  
present.

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CORAM: MADHAV J. JAMDAR, J.  
DATED : 18<sup>th</sup> FEBRUARY 2025

**PC:-**

1. Heard Mr. Fakruddin Khan, learned Counsel appearing for the Petitioner and Ms. Anuja Gotad, learned APP, appearing for the Respondent-State.

2. By the present Writ Petition, relief sought is to transfer the Sessions Case No.318 of 2018 pending before the Court of learned Principal District Judge, Thane to any other Sessions Judge at Thane and also to quash and set aside the order dated 7<sup>th</sup> January 2025 passed by the learned Principal District Judge, Thane in Sessions Case No.318 of 2018.

3. The Petitioner also filed an Application bearing Exhibit-120 in Sessions Case No.318 of 2018 seeking four weeks time for approaching the High Court for filing proceeding seeking transfer. At page 27 of the Writ Petition, order dated 23<sup>rd</sup> January 2025 passed by the learned Judge, Sessions Court, Thane below Exhibit-120 in Sessions Case No.318 of 2018 is annexed. The said order shows that said application filed seeking four weeks time for filing the Writ Petition before the High Court seeking transfer of the matter was rejected by the learned Sessions Judge on the ground that the Petitioner is only interested in protracting the case. In the said order the learned Sessions Judge has elaborately mentioned the details of various Applications filed by the present Petitioner from time to time, who is accused in said Sessions Case No.318 of 2018 and being tried *inter alia* for the offence punishable under Section 302 of the Indian Penal Code, 1860. Learned Sessions Judge has recorded that the Petitioner is interested only in protracting the matter, which is pending for long time and part-heard.

4. Learned APP states that the stage of the trial is for recording statement of the Accused under Section 313 of the Code of Criminal Procedure, 1973 (“**CrPC**”).

5. It is the submission of the Petitioner that the Application bearing Exhibit-83 was filed on 10<sup>th</sup> September 2024 seeking to record objection regarding evidence recorded on 20<sup>th</sup> August 2024. It is his submission that the said Application is not yet decided. He further submits that another Application bearing Exhibit-84 has been filed on 10<sup>th</sup> September 2024 contending that the learned Trial Court has not recorded the suggestions given by the learned Advocate of the Respondent while recording the cross-examination. Thereafter, Application for adjournment has been filed on 17<sup>th</sup> December 2024 and the same has been rejected. Thereafter, Application bearing Exhibit-112 has been filed seeking that the said Sessions Case be transferred to some other Court and the same also has been rejected by the order dated 7<sup>th</sup> January 2025. Application bearing Exhibit-113 seeking adjournment has also been rejected. Thereafter on 23<sup>rd</sup> January 2025, the Application bearing Exhibit-120 has been filed seeking four weeks

time to file the Writ Petition as mentioned herein above and the same has been rejected by order dated 23<sup>rd</sup> January 2025.

6. The learned Principal District Judge and Sessions Judge, Thane in the said order dated 23<sup>rd</sup> January 2025 has observed that first adjournment Application was filed on 25<sup>th</sup> September 2024 contending that the Advocate is suffering from some infection. However, no medical papers were filed and therefore the said Application was rejected. Thereafter, Application was filed on 17<sup>th</sup> December 2024 seeking adjournment on the ground that the Advocate is busy before the High Court. The said Application was also rejected. Thereafter, Application bearing Exhibit-112 was filed *inter alia* contending that Accused has no faith that the said Sessions Case would be heard impartially and the said Application was also rejected. It has been observed by the learned Sessions Judge that all these Applications have been filed to protract the matter, which is very old and part-heard.

7. It is required to be noted that the Sessions Case is of the year 2018. In fact, the High Court has issued Administrative Orders to all the Judicial Officers of District Judiciary asking them to

expeditiously dispose of the matters which are old and pending for more than 5 years. Thus, no fault can be found with the learned Principal District Judge for conducting the trial in expeditious manner. In fact, perusal of the record do not show that the trial is being conducted hurriedly and as the learned Judge is proceeding with the matter expeditiously as the case is old and pending for more than 7 years, it cannot be the ground for transfer.

8. As far as the Application bearing Exhibit-83 dated 10<sup>th</sup> September 2024 to record the objection regarding evidence recorded on 20<sup>th</sup> August 2024 and Application bearing Exhibit-84 filed to record the suggestion given by the learned Advocate of the Petitioner during cross-examination, it is very clear that the learned Principal District Judge will pass appropriate orders on the said Applications.

9. At this stage, learned Counsel appearing for the Petitioner submits that the said Applications bearing Exhibits-83 and 84 filed in Sessions Case No.318 of 2018 have been rejected by the order dated 7<sup>th</sup> February 2025. Perusal of the said order dated 7<sup>th</sup> February 2025 shows that the Application has been filed on 10<sup>th</sup>

September 2024 for correcting the evidence recorded on 20<sup>th</sup> August 2024. It is stated that if there was any anomaly, Application should have been filed immediately. Apart from that, what is stated is that in paragraph No.6 of the cross-examination, all the suggestions given to the witnesses have been elaborately recorded. Therefore, the Applications have been rejected, as the same are frivolous.

**10.** It is also required to be noted that earlier learned Counsel appearing for the Petitioner submitted that the said Applications bearing Exhibit-83 and 84 were pending and no orders are yet passed and when this order is being dictated it is informed to the Court that the Applications have been rejected by order dated 7<sup>th</sup> February 2025.

**11.** It is clear that learned Sessions Judge is proceeding with the trial. The trial has reached up to the stage of recording statement of Accused under Section 313 of the CrPC. The learned Sessions Judge has observed that the Applications after Applications have been filed just to protract the trial.

**12.** Accordingly, no case is made out for transfer of said Sessions Case No.318 of 2018 from the Court of learned Principal Judge and Sessions Judge, Thane to any other Sessions Judge, Thane under Article 227 of the Constitution of India and under Section 407 of the CrPC.

**13.** However, it is clarified that the Petitioner is at liberty to file appropriate Applications for recall of witnesses, if necessary and permissible in law. It is also clarified that the Petitioner is also at liberty to challenge said order dated 7<sup>th</sup> February 2025 passed an Application bearing Exhibit-83 and 84. All contentions in that behalf are expressly kept open.

**14.** Accordingly, the Writ Petition is dismissed, however, with no order as to costs.

**[MADHAV J. JAMDAR, J.]**