

ANAND
SUDHAKAR
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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CRIMINAL APPEAL NO. 739 OF 2025
WITH
CRIMINAL APPEAL NO. 168 OF 2025
WITH
CRIMINAL APPEAL NO. 1877 OF 2024

Sameer Suresh Chavan & anr.

.Appellants

Versus

The State of Maharashtra

.Respondent

Mr. Satyavrat Joshi a/w. Ms. Tanvi Tapkire, Advocates, for the
Appellants

Ms. S. E. Phad, APP, for the Respondent – State

CORAM : S. M. MODAK, J.

DATE : 17.07.2025

P. C.

1. Heard Mr. Joshi, learned Advocate for the Appellants in these three Appeals and Ms. Phad, learned APP for the Respondent – State.

2. Due to paucity of time, these Appeals are kept in the afternoon session. Again I have heard Mr. Joshi, learned Advocate for the Appellants and Ms. Phad, learned APP for the Respondent. Oral leave is sought to carry out amendment. Leave is granted.

Instead of 08.11.2019 it be corrected as 08.11.2024 wherever it appears. Amendment to be carried out forthwith. There are two Sessions Cases pending before the Court of learned Additional Sessions Judge, Sangli. They are Sessions Case No. 33 of 2018 (in which the present Appellants are not the Accused but witnesses) and Sessions Case No. 20 of 2019 (in which the present Appellants are the Accused along with others).

3. In these Appeals, they are challenging the following Order :-

(a) The Order dated 08.11.2024 passed by the learned Additional Sessions Judge, Sangli passed in both the Sessions Cases i. e. Sessions Case No. 33 of 2018 and Sessions Case No. 20 of 2019.

4. By the said Order, the learned trial Judge had given several directions. Even though in the direction of plea, learned Judge opined that the Accused in both the cases will be tried jointly, if the charge is framed in respect of any of the offences in the Second Sessions Case. At the same time, in direction Nos. 7 & 8, learned Judge opined that on the basis of evidence in the first Sessions Case, both the cases will be heard and decided.

5. Mr. Joshi has opposed for conducting joint trial. He placed reliance on the Judgment of the Hon'ble Supreme Court in the case of *Essar Teleholdings Limited vs. Central Bureau of Investigation*, reported in *(2015) 10 SCC 562*.

6. He also invited my attention to the reply filed by the Special

Public Prosecutor on 19.11.2024 before the trial Court in Sessions Case No. 33 of 2018. The prosecution has expressed an apprehension about the delay in trial of the first Sessions Case, if both the cases are tried jointly and simultaneously.

7. Learned APP is conscious of this reply and an apprehension is also expressed that if both the cases are tried jointly, an under trial prisoner in the first Sessions Case may insist for grant of bail.

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8. Wherein there is a challenge to an Order dated 11.04.2025 passed by the learned Additional Sessions Judge, Sangli in Sessions Case No. 20 of 2019, wherein discharge prayer of these two Appellants who are Accused Nos. 2 & 3 was rejected. The Order is on page No. 348.

9. According to Mr. Joshi, in fact, these Appellants were made as witnesses and their statements were recorded in the Charge-sheet covering the first Sessions Case trial.

10. A query is put to the learned APP when the Appellants are the witnesses, what was the material available before the investigating agency to charge, she seeks time to take instructions. No doubt, the witnesses can be made an Accused depending upon the investigation. Let learned APP to file an Affidavit of the concerned investigating officer. Though Affidavit is required, it will help in understanding what was the material relied upon by the

prosecution.

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11. Wherein the present Appellants are Accused Nos. 2 & 3 and they are challenging the Order dated 26.10.2018 passed by the learned 3rd Judicial Magistrate First Class, Sangli below Exh. 1 in Regular Criminal Case No. 275 of 2018, by which learned Magistrate has committed the case to the Court of Sessions. The Order is on page No. 64.

12. Learned Magistrate has quoted the provisions of Section 220 of the Code of Criminal Procedure, 1973 (for short “Cr.P.C.”) about the trial of more than one offences, and the provisions of Section 323 of the Cr.P.C. whereas according to the Appellants, the offences are purely triable by the Court of learned JMFC.

13. When a query is put about the stage of the first Sessions Case, it is submitted that the evidence of defence is going on. It is submitted that even though learned trial Judge has passed an Order of framing charge, up till now, the charge is not framed. In fact, under these circumstances, it is for the trial Court to decide whether to go on with the trial of the first Sessions Case or to defer its hearing depending upon framing of charge.

14. In view of that at present, no ad-interim relief is required to be granted. Once the prosecution will file an Affidavit, the matters will be heard. Liberty is granted to the Appellants to pray for ad-interim

relief in future, if the facts & circumstances warranted.

15. Liberty is granted to the Appellants to request the trial Court to defer framing of charge at least on 19.07.2025.

16. Stand over to **07.08.2025**.

(S. M. MODAK, J.)