



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

40 CRIMINAL APPLICATION NO. 2832 OF 2025

Shivaji Shenpadu Khairnar And Another
VERSUS
Anil Prabhakar Deshmukh And Others

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Mr. Baig Mirza Mazhar Javed, Advocate for Applicants
Mr. Umesh Mitkari h/for Mr. Mukul S. Kulkarni Advocate for
Respondent Nos. 1, 2, 4 and 5.

CORAM : Y. G. KHOBRADE, J.

Dated : 4th March, 2026

PER COURT :-

1. Heard learned counsel appearing for the applicants and learned counsel appearing for non-applicant nos. 1, 2, 4 and 5. Despite service of notice, none appeared for non-applicant no.3.
2. Having regard to the submissions canvassed on behalf of both sides, I have gone through the record.
3. By the present application, the applicants, complainant in Criminal Misc. Application No. 2293 of 2018, pending on the file of learned 13th Judicial Magistrate, First Class, Aurangabad are seeking transfer of the said proceeding to the file of learned Chief Judicial Magistrate, Dhule.
4. Learned counsel for the applicants submits that on 27.07.2010, Applicant No.1, the original complainant, entered into an agreement for construction of a bungalow with Non-applicant No.1.

The said property is situated within the jurisdiction of the learned Chief Judicial Magistrate (CJM), Dhule. However, with an ill motive, the present non-applicants cheated the applicant. At the relevant time, the applicant was serving as a Bank Manager with Bank of India at Aurangabad. Therefore, the applicant filed Criminal Misc. Application No. 2293 of 2018 before the learned CJM, Aurangabad. However, during the pendency of the said complaint, the applicant/complainant superannuated and shifted to Dhule. Hence, it is prayed that Criminal Miscellaneous Application No. 2293 of 2018 be transferred to the file of the learned Chief Judicial Magistrate, Dhule.

5. Per contra, the learned counsel appearing for the respondents vehemently canvassed that initially the present applicant had filed Criminal Misc. Application No. 2293 of 2018 at Aurangabad and, after his superannuation, he is now seeking transfer of the said proceeding from Aurangabad to Dhule. Therefore, ground set out for transfer of the proceeding is not bona fide and substantial; hence prayed for rejection of the application.

6. Needless to say that, the present applicant and non applicants have entered into development agreement in respect of a plot situated within the jurisdiction of learned CJM, Dhule. Non-applicant nos. 1 to 5 as well as the applicant are residing within the jurisdiction of CJM, Dhule. The Agreement dated 27.07.2010 for construction of a

bungalow of the applicant has been executed within the jurisdiction of CJM, Dhule. Further, at the time of execution of the said agreement, the applicant was serving at Aurangabad and because of alleged fraud played upon him, the applicant had filed the Criminal Misc. Application No. 2293 of 2018 before the learned CJM, Aurangabad.

7. On the face of record, it appears that on 24.01.2019, the learned JMFC, Aurangabad called upon the present applicant/complainant for examination under section 200 of the Cr.P.C. After recording of examination, the learned JMFC, Aurangabad passed an order on 13.03.2019 and directed enquiry under section 202 of Cr.P.C. before passing order of issuance of process. However, subsequently, the present applicant got superannuated and permanently shifted to Dhule.

8. Since the applicant and non applicants are permanent residents of Dhule, the property is situated at Dhule and the alleged agreement is also executed at Dhule, it will be convenient for the applicant and non applicants to attend the said proceedings at Dhule, if it is transferred and both parties will not require to travel from Dhule to Aurangabad. Therefore, considering the nature of complaint, it would be just and proper to transfer Cri. Misc. Application No. 2293 of 2018, pending on the file of learned 13th Judicial Magistrate, First Class, Aurangabad to the file of learned Chief Judicial Magistrate, Dhule.

9. In view of the above discussions, following order is passed:

ORDER

- (1) Criminal Application is allowed.
- (2) Criminal Misc. Application No. 2293 of 2018, pending on the file of learned 13th Judicial Magistrate, First Class, Aurangabad is hereby transferred to the file of the learned Chief Judicial Magistrate, Dhule for disposal in accordance with law.
- (3) After transfer of the proceeding, the learned Chief Judicial Magistrate, Dhule shall be at liberty to deal with the matter himself or to assign the same to any other competent court under his jurisdiction.
- (3) The order be communicated to the concerned courts.

(Y. G. KHOBRAGADE, J.)

JPChavan