

**IN THE COURT OF CHIEF METROPOLITAN MAGISTRATE,
ESPLANADE, MUMBAI**
(I/c Presiding Officer – Smt. S. T. Dande)

Case No. 55/TA/2021
(CNR:-- MHMM-11-006501-2021)
(Date:-- 18.12.2021)

Ms. Kangana Ranaut

having address at 5th Floor, DB Breeze, 9, 16th
Road, Khar (W), Mumbai- 400 052.

.... Applicant

Versus

1. Javed Akhtar

having address at 702, Sagar Samrat, Green
Fields, Opposite Juhu Police Station, Juhu,
Mumbai- 400 049.

.... Respondents

2. The State of Maharashtra

Order Below Exh-1

1. The Application is filed u/sec. 410 of Cr. P. C for transfer of all proceedings in the pending complaint C. C. No. 441/SW/2021 before Metropolitan Magistrate, 10th Court, Andheri, Mumbai to any other Court.

Brief facts averred in the application are as follows:--

2. It is averred in the application that, the Applicant has already filed another application for transfer of Criminal Case No. 2575/SS/2020 which is pending assignment of Magistrate. The said application is listed as No. 40/TA/2021.

3. It is further averred in the application that the Applicant, has a personal criminal complaint in the said connected matter bearing

No. 2575/SS/2020, wherein she has instead been a victim of Extortion and Criminal Intimidation by Javed Akhtar, who is a complainant in the complaint bearing No. 2575/SS/2020.

4. It is further averred in the application that the Applicant's complaint is now pending for Affirmation before the same Magistrate before whom she does not wish to proceed.

5. It is further averred in the application that the said criminal proceeding which is pending for verification on oath have been initiated u/sec 383, 384, 387, 503, 506 and 509 r/w Sec 30 and 44 of Indian Penal Code for the alleged offence of Extortion and Criminal Intimidation, which is classified by the Statute as non-bailable and cognizable. That the said matter is still with the filing department and the Applicant does not want to be examined on oath by the same Magistrate, against whom she has alleged bias and prejudices. Hence prayed for transfer of all the proceedings in the pending complaint of Extortion and Criminal Intimidation before Metropolitan Magistrate, 10th Court, Andheri, Mumbai to any other Court.

6. The Respondent No. 1 Mr. Javed Akhtar has filed his reply at Exh-5 and resisted the application. It is contended that the Respondent No. 1 had filed a complaint against the Applicant before the Metropolitan Magistrate, 10th Court, Andheri, Mumbai being C. C. No. 2575/SS/2020 for the offence u/sec 499 and 500 of Indian Penal Code. The said complaint was filed on 03.11.2020 and the same is currently at the stage of recording of the plea of the Applicant and is fixed for the

next date of hearing on 15.11.2021.

7. It is further contended that the Applicant on 16.09.2021 filed a counter-complaint being C. C. No. 0441/SW/2021 against Respondent No. 1 for the offence u/sec 383, 384, 387, 503, 506, 509 r/w Sec 44 and 30 of Indian Penal Code and is fixed before the same Magistrate i. e. 10th Metropolitan Magistrate, Andheri, Mumbai.

8. The Respondent has placed his reliance **In the case of State of M. P. V/s Mishrilal (Dead) And Ors. (MANU/SC/0285/2003)**, wherein it was laid down that, *“It would have been just fair and proper to decide both the cases together by the same court in view of the guidelines devised by this court in Nathilal's case (supra). The Cross-cases should be tried together by the same court irrespective of the nature of the offence involved. The rational behind this is to avoid the conflicting judgments over the same incident because if there is likelihood of conflicting judgments. In the instant case, the investigating officer submitted the challan against both the parties. Both the complaints cannot be said to be right. Either of them must be false. In such a situation, legal obligation is cast upon the investigating officer to make an endeavour to find out the truth and to cull out the truth from the falsehood.”*

9. It is further contended by the Respondent that, Transfer Application No. 40/TA/2021 was dismissed by this court dated 21.10.2021 and hence prayed that the application filed by the Applicant be rejected.

10. The following points arose for my determination, my findings thereon with reasons are as under:--

Sr. No.	Points	Findings
1	Whether there are reasonable grounds for transfer of C. C. No. 441/SW/2021 from Metropolitan Magistrate, 10 th Court, Andheri, Mumbai to any other court?	No
2	What Order ?	Application is rejected

REASONS

Point No. 1:--

11. I have called remark of Ld. Metropolitan Magistrate, 10th Court, Andheri, Mumbai on 21.10.2021. Ld. Metropolitan Magistrate, 10th Court, Andheri, Mumbai has filed his remark on 08.11.2021 and denied the allegations leveled against him.

12. Perused documents filed with the application. It shows that as per request of Mr. Rizwan Siddiqui the Ld. Advocate for complainant the case came to be registered as C. C. No. 441/SW/2021 and it was kept on 15.11.2021. It appears from record that yet verification of the complaint is yet not recorded. Roznama in C. C. No. 441/SW/2021 dated 15.11.2021 and 13.12.2021 shows that on both the dates Advocate for the Complainant has filed applications for exemption as well as adjournment. The said applications were allowed due to absence of Complainant i. e. present Applicant. Further, on both the dates, on request of advocate for the applicant, the case was adjourned

for verification statement of the complainant. Now it is kept on 04.01.2022 for verification statement of the complainant. It shows that the said matter is not even started yet. On the contrary, Ld. Metropolitan Magistrate has granted applications for exemption and adjournment filed by the Applicant. However applicant wants to transfer her matter to any other court from Ld. Metropolitan Magistrate, 10th Court, Andheri. There is absolutely no reason mentioned in the application for transfer of her matter from Ld. MM, 10th Court, Andheri to any other court. The Applicant has filed present application merely on the assumptions which do not have any basis.

13. Further I have already rejected her Transfer Application No. 40/2021 vide order dated 21.10.2021 and therefore complaint bearing no. 2575/SS/2020 is pending before 10th Court, Andheri, Mumbai. Admittedly C. C. No. 441/SW/2021 is a counter complaint. Cross complaints should be tried together by the same court irrespective of the nature of the offence involved. Therefore it is necessary to keep C. C. No. 441/SW/2021 before 10th Court, Andheri, Mumbai. There is no substance in the application filed by the Applicant. Considering the averments in the application, none of the ingredients to seek transfer of case are made out. Only because transfer in earlier complaint was sought, and therefore present complaint is also mechanically sought to be transferred by the Applicant. The aspect of alleging bias against the concerned Judge in earlier complaint is already rejected by this court. Hence there is no case made out in the present application. Hence I answer point No. 1 accordingly.

6

C.C.No. 55/TA/2021

Point No. 2:-- In view of discussion in point No. 1, I pass the following order:--

ORDER

Transfer Application No. 55/TA/2021 is rejected.

Sd/-

(Smt. S. T. Dande)

Date:--18/12/2021

Addl. Chief Metropolitan Magistrate,
19th Court, Esplanade, Mumbai.
I/c Chief Metropolitan Magistrate, Mumbai.