

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE,

47TH COURT, ESPLANADE, MUMBAI

C.C.NO.412/PW/2007

Order below Exh- 183

1. The present application has been filed to conduct the trial of 16 cases including this case by first concluding evidence in all the cases including examination of witnesses and after final argument by parties and judgment be delivered of all cases at the same time. The 16 cases are transferred to this Court including this case by the order of Hon'ble Supreme Court of India in Transfer Petition (Criminal) Nos.333-348/2021 for which the relief is sought in this application.
2. Learned APP opposed the application by filing say vide Exh-183A on the grounds that the present case is already closed and now fixed for final argument. The application is filed to delay the matter. In some cases the trial is already initiated and direction of Hon'ble Supreme Court is that trial be completed within two years and in one case at Nagpur the accused were convicted.
3. Heard both the sides. The learned advocate for accused argued in length and filed some citations. The present matter alongwith other 15 matters have been transferred to this Court due to order of Hon'ble Supreme Court of India passed in Transfer Petition (Criminal) Nos. 333-348/2021 and in that order there was no any direction by the Hon'ble Supreme Court as demanded. Moreover in the order itself the discretionary power has been given to the Principal Judge, Mumbai to transfer the cases more than one Court it itself reveals the intention of the Hon'ble Supreme Court that matter can be decided separately but speedily. Hence,



considering the abovesaid judgment of Hon'ble Supreme Court in the abovesaid Transfer Petition, the application being devoid of merit, is liable to be rejected. Hence the following order is suffice.

ORDER

1. Application is rejected with cost of Rs.5,000/- (Rs.Five Thousand Only) be paid till next date.

R. B. Thakur
(Smt. R.B. Thakur)

Addl. Chief Judicial Magistrate,
47th Court, Esplanade, Mumbai.

Date:24.12.2024

Applied on 24/12/2024
Granted on 24/12/2024
Ready on 27/12/2024
Delivery on 27/12/2024

True Copy

[Signature]
Judicial Clerk, 27/12/2024

**Additional Chief Judicial Magistrate's,
47th Court, Esplanade, Mumbai.**



IN THE COURT OF ADDITIONAL CMM
COURT NO. 47, ESPLANADE COURT, MUMBAI
MISC. APPLICATION NO. OF 2024

Ex. P = 183

IN

C.C. No. 412 of 2007 AND OTHER CONNECTED 15 TRIAL CASES
ON BEHALF OF:

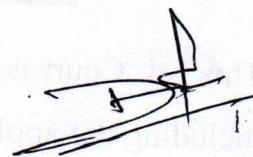
SANJAY HARIRAM AGARWAL. APPLICANT

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1.		

Applicant / Accused

Filed On: 22/05/2024



Filed by

Adv. for Accused



IN THE COURT OF LEARNED, ADDITIONAL CMM, COURT 47,
ESPLANADE COURT, MUMBAI

MISC. APPLICATION NO. OF 2024

IN

C.C. NO. 412 OF 2007 AND OTHER CONNECTED 15 TRIAL CASES
ON BEHALF OF:

SANJAY HARIRAM AGARWAL.

EX-D-183

Application to conduct the trial in accordance with law laid down by Hon'ble Supreme Court in cases several cases dealing with transfer of Multiple FIR/Charge Sheets to be tried by one court

1. This Id. Court is conducting trial in 16 cases pertaining to same accused including the applicant as one of the accused involving similar allegations pursuant to transfer of cases by Hon'ble Supreme Court vide order dated 09.09.2022 in Transfer Petition (Crl.) No. 333-348 of 2021 as further modified by order dated 04.08.2023. The detail of 16 trial going on before this learned Court are mentioned hereinbelow-

- a. CC No.361/2023.
- b. CC No.387/2023
- c. CC No.388/2023
- d. CC No.389/2023
- e. CC No.390/2023
- f. CC No.395/2023
- g. CC No.396/2023
- h. CC No.399/2023
- i. CC No.255/2023



APP to
say.
A CMM/hf
22.05.24



- j. CC No.256/2023
- k. CC No.412/2007
- l. CC No.200/2005
- m. CC No.480/2023
- n. CC No.266/2023
- o. CC No 318/2023



2. That the law has been fairly well settled by Hon'ble Supreme Court on how to conduct a trial in cases dealing with multiple FIRs which have been registered against the accused in different states and where the allegation in the FIRs against the accused are same though the complainant may be different including situations where in some cases FIR has been filed and other cases the chargesheet has been filed and the court has taken cognizance of the case/cases .
3. The THREE JUDGE BENCH OF HON'BLE SUPREME COURT In the case of *Satinder Singh Bhasin Vs. State of U.P(2022) SCC online SC 2155* while dealing with as many as 118 FIRs against an accused has directed consolidation of all the FIRs in one FIR i.e. the First FIR and cases where the investigation is over and chargesheet has been filed, the same shall also be consolidated/ merged in the First FIR by way of supplementary chargesheet.

The Supreme Court in the above case passed the order considering that it will serve the bigger public interest. The relevant portion of the judgement is quoted hereinbelow:-

"As many as 118 FIR have been filed across the State of Uttar Pradesh. However, one FIR is registered at Economic Offence Wing, New Delhi, being No.123/2019 registered on 06.07.2019. We hasten to add that Govt. of NCT of Delhi has no objection to club this FIR along with the principal FIR i.e., FIR No.206/2019 dated 12.02.2019.referred to above.

Accordingly, following the principle enunciated by this Court in *Amish Devgan vs. Union of India & Ors.* (2021) 1 SCC 1, and in the peculiar facts of the present case, we, in exercise of power under Article 142 of the Constitution of India, accede to the relief claimed in terms of the prayer clause pertaining to consolidation of all FIRs, including registered in New Delhi, with FIR No.206/2019 as the principal FIR and for being proceeded with in accordance with law. For, we are also of the opinion that multiplicity of the proceedings will not be in the larger public interest as well.

It is brought to our notice that investigation in respect of some FIRs has been completed and even charge sheet(s) have been filed by the Special Investigation Team (SIT), constituted by the State of Uttar Pradesh in respect of all these cases. In terms of this order, the chargesheet(s) filed in other cases shall stand merged with the charge sheet filed in the criminal case arising out of FIR No.206/2019 dated 12.02.2019.

Further, it will be open to the Investigating Officer in the case registered as FIR No.206/2019, to file a supplementary charge sheet which will be a composite chargesheet to deal with all the statements collated during the investigation in the other cases, including the statement of complainant in the respective FIR as being statement under Section 161 of the Cr.P.C. The supplementary chargesheet to be filed on the basis of the entire record so collected during the investigation in the respective cases will be then made the basis to proceed for trial against the petitioner(s) and named accused therein.

Furthermore, the trial shall proceed as per law from the stage of filing of the supplementary charge sheet. In case the Courts have already taken cognizance on the basis of chargesheet(s) filed in respective cases, those cases in terms of this order shall stand transferred and merged with the trial of the case arising from FIR No.206/2019.

4. It is relevant to point out that the emphasis of the Hon'ble Supreme Court was that there should be essence of One Trial relating to all the FIRs



with an idea to avoid conflicting investigations, trial and judgments . This will *not undermine* the credibility and consistency of Fair Trial and also *facilitate* proper use of judicial resources by consolidation as it avoids repetitive processes, contributing to a quicker resolution of the case, benefiting both the prosecution and the accused.

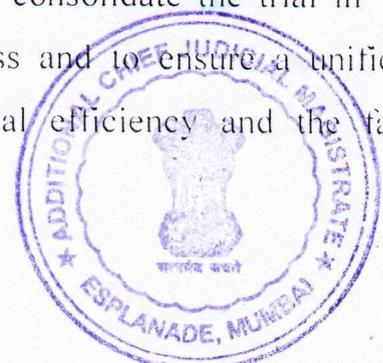
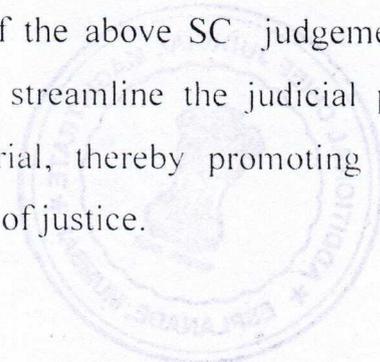
The copy of the THREE JUDGE BENCH OF THE SC JUDGEMENT in the case of Satinder Singh Bhasin v. State of U.P. dealing with transfer of similar cases to one court is filed herewith and marked as **Annexure -1**.

5. In the present case in the Transfer Petition filed in Supreme Court by one of the accused namely Ketan Kantilal Sheth seeking transfer of 16 criminal cases arising from four different states to Mumbai , the Hon'ble Supreme Court has transferred all the above cases to one court in Mumbai to be tried by one court.

The Hon'ble Supreme Court on 09.09.2022 were pleased to pass an order in Transfer Petition (Crl.) Nos.333-348 of 2021 consolidating all cases to be tried by one court while holding that

“considering the common nature of allegations raised against the petitioner in all FIRs and criminal proceedings emanating therefrom which are yet pending in respective trial courts in four states. I am of the opinion that to meet the ends of justice and fair trial, the transfer petition deserves to be allowed”.

The essence of the above SC judgement to consolidate the trial in 16 cases and to streamline the judicial process and to ensure a unified approach to trial, thereby promoting judicial efficiency and the fair administration of justice.



THE SC ORDER ALSO ENSURED THAT THERE SHOULD NOT BE STANDALONE AND INDEPENDENT PROCEEDINGS AND RISK CONFLICTING JUDGMENTS IN IDENTICAL CIRCUMSTANCES AND TRANSACTIONS IN SIMILAR CASES .

The copy of the order passed by the Hon'ble Supreme Court dated 09.09.2022 in T.P. (Crl.) No. 333-348 of 2021 has been annexed as **Annexure No. 2** of this application.

6. That from the reading of the first judgment as passed by the THREE JUDGE BENCH OF SUPREME COURT in the Transfer Petition in the case of *Satinder Singh Bhasin (Satinder Singh Bhasin Vs. State of U.P.(2022) SCC online SC 2155)* , the Supreme Court in its the judgment passed, made it absolutely clear that the law requires that where there are multiple FIRs which has been registered, all should be consolidated and one trial is to be conducted in relation to all FIR's.

One trial will ensure Fair trial by providing proper opportunity to both the accused and the prosecution including but not limited to avoiding conflicting trial and judgements.

The said essence has also been applied by the Hon'ble Supreme Court in its Judgment dated 9th September 2022 , in the present set of 16 cases , when all the cases has been consolidated to be tried by one court on the following premise :

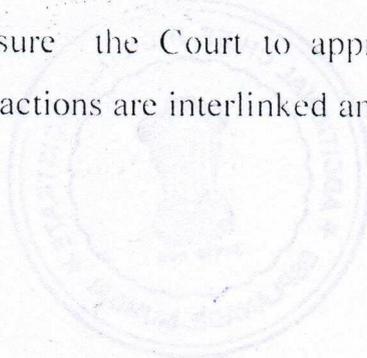


That , if the cases are tried by one court, the court will be in a position to consider all the allegation in all the 16 case arising of allegations of Financial Non Fulfillment of Contracts and thus allowing the Trial Court to examine all the evidence across 16 cases simultaneously to get a in a holistic and more reasoned and equitable view of the entire issue which manifested in 16 cases being filed against the company .

7. In the Judgement dated 9th Sep 2022 by the Hon Supreme Court in the transfer petition of Ketan Kantilal Sheth , the SC in unequivocal terms mandates that while the witness is to be examined separately in all the cases it also implies that the purpose and essence of transfer and consolidation of cases to be tried by one court can be achieved only if Trial in all the cases by examination of witness is concluded first in all cases and thereafter the final arguments in all the cases are heard together and thereafter the judgement is pronounced.

And this is what the several bench of Supreme Court through their several judgments passed previously in cases which deal multiple FIR and Transfer Petitions. The SC through its various Orders passed in Transfer Petitions filed , also mandates the manner in which the Trial Court should conduct a trial where multiple FIRs have been registered and tried involving common nature of allegations.

8. That the applicant further submits that the 16 cases being tried in Court 47, the Trial Court should run the trial simultaneously and conclude the evidence first in all cases and thereafter pronounce the judgements in all the cases . This will ensure the Court to appreciate the entirety of disputes since all the transactions are interlinked and identical.



These transactions in the above cases of financial allegations cannot be separately looked by the Court in a selective and piece by piece manner as all the cases transferred by the SC are interlinked and interconnected and need a holistic view and panoramic examination of evidence and consideration of facts before the Orders are passed by the Trial Court .

9. In a situation of Transfer of multiple cases to one court and in which the Trial Court in running the Trial Serially and passing Judgments in a serial manner will be against the spirit of the Judgment passed by the Hon Supreme Court vide its order dated 9th September 2022.

In fact the SC order meant a consolidated trial in one court to avoid different and contradictory Orders for similar situation and charges and this could then leading to completely difficult and chaotic situation for the accused .

Therefore relying on the Supreme Court Order dated 9th September 2022, it is imperative and important that the trials are completed upto the stage of final arguments by calling for evidence and examining the witness and thereafter final arguments of the counsels for their respective Parties in trial cases be heard.

It is after the final arguments, the pronouncement of all the judgments should be done.



10. That in view of issues mentioned above it is humbly prayed that the conclusion of all trials should be done first by completing the evidence in all trial cases and only thereafter fix the cases for final arguments of the parties in all cases. And the after hearing the final arguments, the pronouncement of all the judgments should be done.

Such an approach will be in accordance with the judgement passed on 9th September 2022 by Hon'ble Supreme Court in the Transfer Petition of Ketan Kantilal Sheth and this will also uphold the laws laid down by THREE JUDGE BENCH OF HON'BLE SUPREME COURT in the case of *Satinder Singh Bhasin (Supra)*.

PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. Conduct the trial by first concluding the evidence in all the trial cases including examination of witness and only thereafter fix all the cases for final arguments of the counsel of the Parties. On completion of arguments that the judgments be pronounced in all cases.
- b. Pending the Hearing and Final disposal of the present application, the Hon Court be pleased with and not to proceed with further proceedings u/s 313 of CRPC for CC No /PW 412/2007
- c. Ad Interim relief in terms of Prayer Clause (b) above



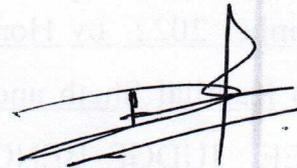
d. Pass such further order [s] as this Hon'ble Court may deem fit and proper in the facts and circumstances of the cases.

AND FOR THIS ACT OF KINDNESS THE APPLICANT[S] AS IN DUTY BOUND SHALL EVER PRAY.

S. Pawar

Applicant / Accused.

Filed On: 22/05/2024.



Filed by

Adv. for Accused.

Applied on: 24/12/24
Granted on: 24/12/24
Ready on: 27/12/24
Delivery on: 27/12/24

True Copy

Judicial Clerk,
Additional Chief Judicial Magistrate's,
47th Court, Esplanade, Mumbai.



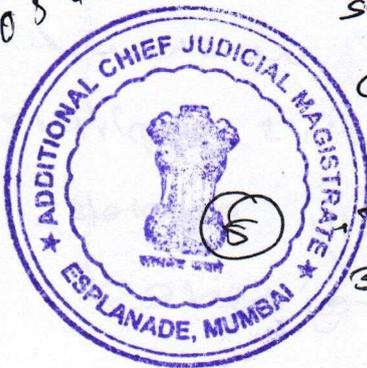
Say + P Feb - 183

CICINU. 412/PA/2002.

With permission of H'ble court EX-D-183
A
Say of APP as follows:-

- ① Prosecution strongly opposed present application.
- ② In present case evidence is already closed & statement S.313 of accused already recorded, & case is for final argument now.
- ③ So this application given by accused only for wasting time of H'ble court & for delaying present trial.
- ④ There are more than 19 cases in which some charge sheet were in Gujarati, Bangali etc. & F.O. still not produced translated copies in 3/4 cases but other which are in Marathi, English trial already initiated & some case cases put for final arguments.

Seen
05.06.24



Trans for petition number no. 333 -
348/2021 Supreme court ordered

" the trial be concluded as possible not later than two years". There is no such order that all cases should be same time & disposed same time. Hence, this application is not maintainable, only for disobeying order of Hble. S.C. for speedy disposal.

② In other hand in same other connection case. C.C. No. 147/2002 (Crime 10/2002) registered in Ganesha path police station and completed in NQPR & accused were convicted. So how

then PW 4/2/2007 remain in can poolong, if we allow this application then, we are not following Supreme

Court order of speedy disposal within two years & we cannot calculate for time for remaining cases how much time they will conclude.

Hence, all the evidence concluded before, Hble. this court hence, we should have conclude that. Hence this application entitled to rejected not legally maintainable.

Hence, kindly application may be rejected.



Applied on...
 Granted on...
 Ready on...
 Delivery on...

Additional Chief Judicial Magistrate's,
 47th Court, Esplanade, Mumbai.

True Copy

True App.