

Session Case No. 68/2018

State V/s. Vikas Vakade & Ors.

**ORDER BELOW EXHIBIT 68**

[ Passed on 02/09/2022 ]

1. Applicants have filed present application for transfer of Reg. Cri. Case No. 120/2018 from the Court of Chief Judicial Magistrate, Raigad-Alibag to this Court.
2. Applicants submitted that, on 09.04.2018 complaint was filed in Mandwa Sagari Police Station vide Cr. No. 16/2018 against them. In said C.R. charge-sheet was filed in the Court of Chief Judicial Magistrate Raigad-Alibag and it is numbered as Reg. Cri. Case No.128/2018. The said charge-sheet was committed to the Sessions Court and it is numbered as Sessions Case No. 68/2018.
3. Applicants further submitted that, on the same day Vikas Vakade has also filed complaint against the accused Darshan Vakade, Amrut Vakade and Pradeep Vakade in Mandwa Sagari Police Station vide Cr. No. 17/2018. In the said C.R. also charge-sheet was filed and it is numbered as Reg. Cri. Case No. 120/2018. The said matter is pending in the Court of Chief Judicial Magisterial, Raigad-Alibag and was kept for framing of charge on 24.08.2022.
4. Applicants further submitted that, both the C.R. arose from the same incident and pending in two different courts. In the interest of justice it is necessary to try both the matters in one Court. If the Reg. Cri. Case No. 120/2018 is tried in separate court it is technically difficult to read that evidence in said

matter. Accused in present matter are complainant and important witnesses in that matter, hence it will be legally and technically difficult to take defence. In the interest of justice, if the application is allowed then it will not cause any prejudice to any party. Hence, it is prayed that, Reg. Cri. Case No. 120/2018 from the court of Chief Judicial Magistrate, Raigad-Alibag be transferred to this Court.

5. On behalf of state Learned DGP filed say at Exh. 73. Ld. DGP submitted that, Session Case No. 68/2018 and Reg. Cri. Case No. 120/2018 are two different cases. That are not arisen from one incident. The incident in Cr. No. 16/2018 took place on 08.04.2018 at about 23.45 hours on the road near Thakur Kutir and the incident in Cr. No. 17/2018 took place on 09.04.2018 in between 00.05 to 00.15 in front of courtyard of complainant. Both the incidents are different and took place on different spots. There is no any reason to try both the matters together. Hence, prayed to reject the application.

6. Perused the documents. Heard arguments of both the sides.

7. On perusal of application it appears that, present accused have prayed to transfer Reg. Cri. Case No. 120/18 to present court for trial. It is the contention of accused that, present case and R.C.C. No. 120/18 are counter cases. If we peruse FIR of present case it shows that, an incident was happened on 08.04.2018 at about 23.45 hours. An incident was happened near Thakur Kutir. On the other hand incident of Cr. No. 17/18 was happened on 09.04.2018 at about 00.05 to 00.15 hours. The spot of incident was in front of house of Vikas Baliram

Vakade. So it is clear that, the timing of both the offences are different so also the spot of incidents of both the offences are different. So it can not be said that, both cases are counter cases. So in my opinion taking into consideration material on record there is no need to conduct both the matters together. Hence, I proceed to pass the following order.

**:: ORDER ::**

Application Exh. 68 is rejected.

Alibag  
Dt. 02.09.2022

Sd/-  
(Smt. S. S. Sawant)  
Sessions Judge, Raigad-Alibag.