
(2003) 11 GUJ CK 0054
In the Gujarat High Court

Case No : Criminal Miscellaneous Application No. 9 of 2003

State of Gujarat

APPELLANT

Vs

Jitendrakumar @ Jitu and Amratdan Gadhavi

RESPONDENT

Date of Decision : 15-11-2003

Acts Referred:

Citation : (2003) 11 GUJ CK 0054

Hon'ble Judges : Jayant M. Patel, J

Bench : Single Bench

Advocate : K.C. Shah, app, for the Appellant; Rule Served, for the Respondent

Final Decision : Allowed

Judgement

Jayant Patel, J.—Though the rule is shown as served, nobody appeared on behalf of opponent and the matter as per the earlier order is taken up for final hearing.

2. The short facts of the case are that the opponent is the accused in NDPS Case No.1/2001. As per the prosecution the NDPS Case No.3/98 was registered with the Kadi Police Station and thereafter it was transferred to Ahmedabad City Sessions Court to be tried with NDPS Case No.291/98. The said NDPS Case No.291/98 was registered with Amraiwadi Police Station Prohibition CR No.5284/98. The accused of NDPS Case No.3/98, namely, Nipul Dineshbhai Gajjari had filed Cr.M.A.No.4441/99 before this court and ultimately as per the order, dated 24.9.99 passed by this court (Coram: R.P.Dholakia,J) observed as under:

"It is transpired from the record and proceedings of Amraiwadi Police Station has recorded an offence being Amraiwadi Police Station Prohibition C.R.No.I-5284/98. Thereafter, same Investigating Officer had gone along with the informant at Kadi and offence was registered there at Kadi as Kadi Police Station Prohibition C.R.No.151/98. Looking to the facts and circumstances of the case, these offences are required to be tried by one court only for which the applicant of Cr.M.A.No.441/99 had made a prayer before this court for which

other side has no objection.

Sessions case No.3 of 1998 arising from Prohi Case No.151/98 of Kadi Police Station pending in the court of Dist & Sessions Judge, Mehsana is ordered to be transferred to City & Sessions Judge Court, Ahmedabad for trial and disposing of the same according to law by the same judge who is conducting the trial of Sessions Case No.291 of 1998 arisen from Amraiwadi Police Station Prohibition C.R.No.5284 of 1998."

Therefore, accordingly the chargesheet vide Prohibition C.R.No.151/98 of Kadi Police Station which was pending in the court of District and Sessions Judge, Mehsana vide Sessions Case No.3/98 is transferred to City & Sessions Court, Ahmedabad.

3. There appears to be considerable force in the contention raised by the Ld.Addl.Public Prosecutor that since the main case being Sessions Case No.3/98 is transferred to the City and Sessions Case, Ahmedabad as per the earlier order, dated 24.9.1999 by this court in Cri.M.A.No.4441/99 the present NDPS Case No.1/2001 which is by way of supplementary one deserves to be transferred to City & Sessions Court, Ahmedabad. Even otherwise also, with a view to see that there is uniformity in the decision and the time can be curtailed for examination of common witnesses if the same offence is directly or indirectly connected, no prejudice will be caused if the case is transferred to one court. So far as the present case is concerned, the opponent was served but he has not appeared inspite of rule being served. Further, as observed earlier, it also transpires from the record that NDPS Case No.1/2001 which is at present pending in the court of Sessions Judge at Mehsana is by way of supplementary one to the earlier NDPS Case No.3/98. When the main NDPS Case No.3/98 is already transferred pursuant to the order passed by this court on 24.9.99 in the case of Nipul Dineshbhai Gajjari (supra), it would be in the fitness of things to transfer the NDPS Case.No.1/01 pending in the court of Sessions Judge Mehsana to the City & Sessions Judge, Ahmedabad for trial and disposal which is conducting the NDPS Case No.3/98 arising from Prohibition Cr.No.151/98 of Kadi Police Station.

4. In view of the above, application is allowed. NDPS Cr.No.1/01 pending before the Dist.& Sessions Judge, Mehsana is transferred to the court of City & Sessions Judge, Ahmedabad. Rule is made absolute accordingly. Considering the facts and circumstances of the case, there shall be no order as to costs.