Madapuram Maddileti Naidu Vs The State of A.P.

Court: Andhra Pradesh High Court

Date of Decision: Oct. 20, 2014

Acts Referred: Advocates Act, 1961 â€" Section 16, 36
Arms Act, 1959 â€" Section 25(1)(b), 27
Criminal Procedure Code, 1973 (CrPC) â€" Section 311, 313, 317, 319, 407
Explosive Substances Act, 1908 â€" Section 3, 4, 6
Penal Code, 1860 (IPC) â€" Section 147, 148, 149, 302, 307

Citation: (2015) 2 ALT(Cri) 253

Hon'ble Judges: B. Siva Sankara Rao, J

Bench: Single Bench

Advocate: N. Naveen Kumar, Advocate for the Appellant; Public Prosecutor, Advocate for the Respondent

Judgement

@JUDGMENTTAG-ORDER

B. Siva Sankara Rao, J.
All the three transfer criminal petitions are filed by the respective accused out of about 47 accused in the Sessions

Case No. 63 of 2009 pending at the stage of arguments, which is covered by Crime No. 37 of 2008 of S.H.O., Devarakonda Police Station,

Kurnool District, State of Andhra Pradesh, for the offences punishable under Sections 147, 148, 324, 326, 307, 302 read with 149 I.P.C. and

Sections 3, 4 and 6 of Explosive Substances Act, Sections 25(1)(b) and 27 of the Indian Arms Act, for which offences, the accused were charged

for trial.

2. The transfer Criminal Petition No. 180 of 2014 was filed on 04.08.2014 by the 1st accused M.M. Naidu to transfer the Sessions Case from the

Court of II Additional District Judge at Adoni, Kurnool District, where it is pending to any other competent Court of Sessions, Kurnool Sessions

Division. Along with the transfer application, the affidavit filed by the petitioner speaks from para No. 4 that the approach of the learned Presiding

Officer in adjudicating the trial and guilt of the offence is completely biased and is being conducted in pro-prosecution manner. The Petitioner is

presumed to be innocent till guilt is proved. Accused has substantial right of fair trial as mandated by constitutional law which envisages and

guarantees various fundamental rights even to accused in any crime. The process of adjudication demand for fair trial in furtherance of

determination of guilt. The averments particularly at para No. 7 reads as follows:

It is submitted during the adjudication of the trial on the 30.07.2014 during the course of the argument of Public Prosecutor, the Hon''ble Presiding

Officer of the II Additional District & Sessions Judge at Adoni, Kurnool, intervening the arguments of Public Prosecutor communicated in the open

Court that In any case of sessions pertaining to factions, like this no advocate should represent the case on behalf the accused and so that all the

accused in such case shall be sentenced to imprisonment. Further commented that no advocate of decent standing shall represent the cases and it

should be left to state brief who are generally inexperienced, so that it becomes easy to the court to convict and there by fear can be created

among the factionists and thus the faction can be controlled.

3. His further averments from Para No. 8 onwards in nutshell are that the instance referred above would categorically reflect that Honourable

Presiding Officer in pre-determined manner to convict the accused for alleged offence, before determination of the guilt though it is required to be

proved beyond all reasonable doubt with substantial evidence and the Court is to adjudicate the facts and material placed on record to prove the

guilt of the accused but not in a pre-determined manner by pre-judge the guilt of the accused without conclusion of the trial. The conduct of the

presiding officer is creating in the mind of the accused, reasonable apprehension that he would not get a fair and impartial trial. The established

principle is justice not only be done but manifestly and undoubtedly to be seen and done.

4. He mentioned another instance in his affidavit para No. 11 onwards that A-15 and A-16 filed petition under Section 311 Cr.P.C. for recall of

P.Ws 2 and 4 for cross-examination and the presiding officer on 16.07.2014 when the matter was posted for counter of the prosecution, without

giving opportunity to petitioners for hearing before counter filed by the prosecution side dismissed the said petition. In Para No. 12 of the affidavit,

it is mentioned that the learned Presiding Officer in turn subsequent to the stating in the open Court regarding the dismissal of the above petition

directed the prosecution to file its counter, so that he can pass the orders of the dismissal. The conduct of the presiding officer would clearly show

that the presiding officer is pre-judging against the accused and in such circumstances, the accused would be denied a fair trial. It is submitted at

para No. 13 that the matter is posted for the arguments of the petitioners(accused) and the learned Presiding Officer is presiding further with

hearing arguments that further would cause irreparable loss and injury to the petitioner unless stay of all further proceedings be ordered he would

be put to grave injustice and irreparable loss hence to transfer and meanwhile to stay further proceedings and pass such just orders. Along with the

transfer application with the averments, transfer applicant/A-1 that also supported the affidavit referred supra, copy of the charge sheet in the case

filed and also copy of the order in Crl. M.P. No. 101 of 2014 for recall of P.Ws 2 and 4 filed by A-15 and A-16 filed besides copy of said

petition for recall which was dated 09.07.2014 and copy of counter filed on behalf of the prosecution i.e., S.H.O. through Public Prosecutor dated

16.07.2014. Further, there is also a two paras affidavit of the advocate for the transfer petitioner/A-1 dated 03.08.2014 filed. The said affidavit of

the advocate Sri C. Nagendranath, aged 66 years of Kurnool, reads that he is one of the counsels appearing for A-1, A-4, A-5, A-6, A-15 and

A-16 in the Sessions Case supra, that on 30.07.2014 the Public Prosecutor was submitting his arguments in the Sessions Case on behalf of the

prosecution and at that time, the Honourable Presiding Officer intervened and commented in the open Court that in any case of Sessions pertaining

to factions, like this, no advocate should represent the case on behalf of the accused, so that all accused in such cases should be sentenced to

imprisonment. Further commented that no advocate of decent standing shall represent such cases and should be left to State Brief who are

generally inexperienced, so that it becomes easy to the Court to convict and thereby fear can be created among the factionists and that the faction

can be controlled.

5. The sum and substance of this transfer petition averments is the alleged incident dated 30.07.2014 when the matter is in the stage of arguments,

about the alleged open Court utterance to attribute bias or prejudice and the other is earlier to it the so called order of the presiding officer dated

16.07.2014 in dismissing recall of P.Ws-2 and 4 that too in the application filed by A-15 and A-16 for further cross-examination in saying without

even filing counter by prosecution and without hearing the petition was dismissed and latter the presiding officer asked the Public Prosecutor to file

counter for his passing the orders of dismissal.

6. It is important to note that but for the two instances in the entire trial conducted, there is no other whisper against the presiding officer who he

working for past more than 2 years there, as to he was not an objective minded or he was having any prejudice or set of notions not cordial for fair

trial or with any bias.

7. This Court (another bench) while came for admission of the matter, on 06.08.2014 passed the order calling for report of the Principal District

and Sessions Judge of the said Sessions Division, Kurnool with remarks of the Presiding Officer. The then incharge Principal District Judge who is

also Special Judges for Scheduled Castes and the Scheduled Tribes-cum-VI Additional District Judge, Kurnool by proceedings dated

14.08.2014, submitted the report which indicates that immediately after receiving the copy of the order of the Honourable High Court by fax, on

11.08.2014 she forwarded the photo copies of the petition and affidavit of transfer petitioner supra, along with affidavit of the advocate Sri C.

Nagendranath to the II Additional District and Sessions Judge at Adoni to offer his remarks on the allegations levelled against him and he submitted

his remarks dated 13.08.2014 in Dis. No. 780 (reference No. 3) and that is submitting with enclosures it shows the District Judge called for the

remarks and forwarded. The remarks of the presiding officer of the II Additional Sessions Judge, Adoni, where the Sessions Case is pending in

nutshell read that he assumed the charge of II Additional Sessions Judge at Adoni on 02.05.2012 (working more than 2 year 4 months therein)

and by the time he assumed charge, the Sessions Case No. 63 of 2009 was at the stage of cross-examination of P.W.-41 who is the investigating

officer of the case having commenced the trial in the year 2010 and from the attempts of accused to stall the proceedings one way or the other

there is direction from the Honourable High Court to dispose of the case as expeditiously as possible.

8. Coming to the allegations in the affidavit of the transfer petitioner and the advocate concerned (referred supra), the remarks of the officer read

that the said allegations are incorrect and as a matter of fact, the transfer petitioner/A-1 was not present on that day in the Court during hearing of

arguments and a petition was filed to condone his absence that was also allowed and his affidavit mentioning as if what all transpired is only hearsay

and the affidavit of the Advocate C. Nagendranath are also false and denied and the officer swear in stating that he did not make such comment as

mentioned in the said affidavit and he narrated what actually transpired which reads as follows:

On 30.07.2014 when the arguments of the learned Additional Public Prosecutor are concluded, there was a general discussion in the Court hall as

to how to control the faction. One of the Advocates sitting in the Court hall commented that like in Kasab''s case, if no Advocate comes forward

to represent the factionists, it can be controlled, to some extent. AT that I have stated that even if nobody comes forward to represent the case,

there are panel of Advocates and the Mandal Legal Services Committee will appoint one of the panel advocates to represent the case. It is further

stated by me in the open Court that every accused is entitled for legal aid.

9. Except making such general comment, nothing was aimed at this particular case. No derogatory comment was made that an advocate of decent

standing shall not represent the case. These allegations have been made only with an ulterior motive to see that the proceedings are stalled or the

case is transferred from this Court to any other competent Court. He also enclosed the affidavits of Advocates who were in the Court hall during

the course of arguments to substantiate his above submissions. The affidavits given by Sri T. Nagaraj, Advocate aged about 50 years, Adoni, Sri

M. Sridhar Reddy, Advocate, aged 44 years, Adoni, Sri B. Harisarvottama Reddy, Advocate, aged about 43 years, Adoni, Sri B. Nettekantaiah,

Advocate, aged about 42 years, Adoni, Sri Giridhar, Advocate, aged about 46 years, Adoni, Sri C. Anand, Advocate, aged about 43 years,

Adoni, Sri L.K. Sunder Singh, Advocate, aged about 46 years, Adoni, Sri K. Shaukat Tabrez, Advocate, aged about 30 years, Adoni, Sri L.K.

Jeevan Singh, Advocate, aged about 33 years, Adoni, Sri L.K. Rathan Singh, Advocate, aged about 58 years, Adoni, Sri Y.R. Mallikarjuna,

Advocate, aged about 44 years, Adoni, Sri K. Venkataswamy, Advocate, aged about 49 years, Adoni, are all in one voice saying and

substantiating what the Presiding Officer stated supra and it speaks that there was after the completion of the arguments of the learned Additional

Public Prosecutor in the Sessions Case No. 63 of 2009 and the matter is posted or to be posted for arguments of the accused; there was a general

discussion with reference to the case of one Kasab of the attack on the Parliament House and in its co-relation regarding the factions and faction

riddled crimes and the Presiding Officer stated that when some advocates commented that in faction matters if the advocates failed to represent the

accused the factions can be controlled. The Presiding Officer stated that it is the duty to provide legal aid from entitlement of the accused through

the Mandal Legal Services Authority from among the panel advocates to defend the accused if no advocate come forward to defend otherwise. If

that is true, from the line of nearly 12 advocates stated on oath that no such incident as reflected in the affidavit and petition averments of the first

accused or that reflected in the short affidavit of the Advocate Sri C. Nagendranath regarding what was transpired in the open Court on

30.07.2014. The Presiding Officers other remarks are that, so far as the Crl. M.P. No. 101 of 2014 for recall of L.Ws 2 and 4 filed by A-15 and

A-16 that was filed on 10.07.2014 and it was posted for counter of the learned Additional Public Prosecutor on 16.07.2014 and it is after filing of

counter and after hearing, orders have been passed in the Court and said order has been challenged before the High Court and the same was

confirmed by the High Court. However, order is passed by him after giving fair opportunities to both the parties and the contention contra is false.

It is further stated in the remarks that even in the past, the accused sent several complaints directly to the Presiding Officer (his predecessor) who

also faced a departmental enquiry for that matter for alleged non-initiation of proceedings against additional accused A-47 and A-48 under Section

319 Cr.P.C. and it is the present Presiding Officer that has taken cognizance of the offence also against A-47 and A-48 and denovo trial

conducted by affording fair opportunity to the accused and the allegation contra if any is incorrect muchless to attribute any bias or partiality. It is

also stated that number of criminal miscellaneous petitions were at belated stage after completion of the prosecution case and even after defence

evidence to recall prosecution witnesses, to summon some of the witnesses and to call for documents and all the applications were almost allowed

by the Court giving fair opportunity and in spite of the fact that there is a conditional order from the Honourable High Court to dispose of the case

expeditiously, that the Presiding officer never acted in a pre-determined manner and the apprehension of the accused that they would not get fair

trail is baseless and highly imaginary.

10. It is important to note that after remarks of the presiding officer received, the A-1 filed additional material which is his additional affidavit dated

15.10.2014 stating that in the transfer petition, there is a stay of all further proceedings vide order of the High Court dated 13.08.2014, that on

12.09.2014 the said interim order of stay extended till 16.09.2014 and the A-1 obtained certified copy of said order of extension of stay from the

Registry, that on 15.09.2014 when the Sessions Case was listed for hearing the counsel for A-1 Sri Nagendranath cause filed a memo stating that

on 12.09.2014 stay of all further proceedings of the Sessions Case granted by the High Court and certified copy of the same also annexed, that on

19.09.2014 the learned Presiding Officer on perusal of copy of the orders produced with memo, pointed out the date in the order is mentioned as

20.09.2014 though that was inadvertently the Registry of the Honourable High Court recorded as 20 for 12 and the Presiding Officer without

considering the same stated as if verified with Registry about the genuineness and correctness of the order and the Advocate Sri Nagendranath

was not in the Court, case was passed over and called as post-lunch and all the accused were asked to leave the Court Hall and the Presiding

Officer rejected the submission of Advocate Sri Nagendranath and about the said inadvertence mention by the Registry of the High Court as 20

for 12 in the order and issued show-cause notice dated 19.09.2014 to Sri Nagendranath to submit explanation regarding the genuineness of the

orders and the counsel at High Court addressed a letter dated 22.09.2014 to Sri Nagendranath stating that it is a mistake of the Registry in so

recording the date and the error crept in and informed the transfer petitions were thereafter listed on 18.09.2014 and stay was extended till

16.10.2014 and Sri Nagendranath produced letter of High Court Advocate before the Presiding Officer on 23.09.2014 and meanwhile copies of

the interim order was communicated by the High Court and the Presiding Officer recorded the explanation of Sri Nagendranath and endorsed the

same as closed. Filing of the above transfer case appears to have resulted the above hostile attitude of the Presiding Judge and he is being

subjected to trial involves his life and liberty hence requested to transfer as this is by mentioning this as an additional ground. No doubt, the show

cause notice issued by the Presiding Officer dated 19.09.2014 to submit explanation of the advocate, who filed the said order with memo on

15.09.2014 that shows the order passed on 20.09.2014 which shall never occur. The explanation submitted by the counsel speaks said

inadvertence in the Registry in mentioning the same and also subsequent extension of stay. Even in the explanation, the said advocate mentioned

inadvertence as 20th for 16th in fact it is for 12th. There is nothing wrong on the part of the Presiding Officer to attribute motives when the alleged

order filed on 15.09.2014 show the order as if passed in a future date on 20.09.2014 muchless to say as a hostile attitude on the part of the

judicial officer. It is simply called for explanation about the genuineness of the order and nothing otherwise and that too from the very additional

affidavit of A-1 says he does not know what was the transpired within the Court and the counsel Nagendranath not even attended by filing the

memo with any explanation and for his absence the matter was passed over till after lunch and in his saying after the accused were sent away the

Presiding Officer and the advocates were in the Court Hall they had a talk regarding it and later submitting that explanation with covering letter of

advocate of High Court regarding the mistake on the part of the Registry that too when the docket proceeding undisputedly closed from said

explanation/memo.

11. So far as filing of the affidavits of the advocates 12 in number who were present in the Court on 30.07.2014 regarding the incident that was

made a ground for transfer is to what actually transpired in the open Court, the officer committed no error for attributing any motives against the

officer therefrom. In fact it is important in this context to note that the docket proceedings of the Court dated 30.07.2014 which are sacrosanct

and un-challenged all through even now that A-1 was not present in the Court on 30.07.2014. In his transfer application he filed his affidavit in

support of the above averments as if he was present which is nothing but false if not atleast an exaggeration to make a ground though sanctity can

be given to the advocate for the accused on oath; it is only running in two small paras and half a page. It is even laconic to say on close perusal,

being bereft of material particulars as to what actually happened. More particularly when it is compared with 12 affidavits of the advocates present

in the Court on that day of what was transpired which categorically show nothing referring to the case was the talk therein muchless to attribute any

bias or prejudice on the part of the presiding officer against any of the accused or their counsel. On that date in fact after prosecution arguments

and exhibition of a C.D. on projector with L.C.D., the C.D. was marked in defence side and what was viewed is part of notings of the Judge and

it was on petition after the defence arguments heard in part and for continuation including for written arguments the matter was posted to dated

06.08.2014. There is nothing regarding the incident as depicted by the accused and their counsel on 30.07.2014, as had it been in their petition,

they should make a mention or atleast a memo in Court for part of Court record if not on that date, atleast by next day, which they did not, for so

alleging later in transfer application of 1st accused dated 04.08.2014. Besides the above, with reference to the alleged happening, this Court

cannot ignore, but for to weight from the affidavits of 12 Advocates also who have given in one voice of no such thing happened, that gives

credence to support of said version of the presiding officer in his remarks categorically stated on oath of what was transpired; and all that belies the

petition averments also from absence of Petitioner(A-1) in Court on that date as per the docket proceedings in his filing the transfer application as

if he was present and transpired despite he filed an application for absence under Section 317 Cr.P.C. that was allowed and also in the above

factual background no credence can be attached to the affidavit of the advocate of the petitioner (A-1) for the above reasons.

12. It is important to note that the docket order of the Court on 30.07.2014 speaks that it is A-5, A-6, A-9, A-12, A-13, A-14, A-17, A-20, A-

22, A-23, A-38 only present and all other accused were called absence and petitions filed for their absence allowed and police Devarakonda also

present. The learned Public Prosecutor completed his arguments. After submitting the arguments by prosecution, at the request of learned

Additional Public Prosecutor and learned counsel for the accused viewed C.D. that is marked as Ex. D-37, that is projected on 16mm screen. A

separate observation proceedings were written by this Court during the course of watching the video. The said observation proceedings were

recorded in the presence of learned Additional Public Prosecutor and the learned counsel for the accused. These proceedings can be used for

submitting the arguments by the prosecution and defence. After conclusion of arguments by the prosecution, the learned defence counsel submitted

arguments in part, he filed a petition seeking one week adjournment enabling him to prepare written arguments, hence call on 06.08.2014 for

defence arguments. At that day, the entire day being earmarked for the arguments of the defence counsel in view of the sensitivity of the case. If

situation warrants the continuation of arguments shall be taken up on 07.08.2014. Call on 06.08.2014.

13. It is important to say on that day not only prosecution evidence is completed, but also video C.D. also projected and marked as Ex. D-37 on

the defence side, at request of counsel for the accused and accused counsel submitted arguments in part and taken time on petition till 06.08.2014

to submit further arguments and written arguments also and the docket also speaks in continuation of arguments can be heard even on 06.08.2014.

Is it believable that in the course of prosecution arguments the learned Judge made the alleged comments to give apprehension in mind of the

accused of prejudice to judicial officer; if so still it be believable that the video C.D. displayed and defence arguments further submitted in part by

taken time for continuation to dated 06.08.2014. It clearly speaks the trial Judge was affording fair opportunity and there is nothing even to

attribute any prejudice or bias from that to the trial Judge, further the docket proceedings (dated 30.07.2014) are sacrosanct for not even

challenged by filing memo on that day or on even next date before the same Court that can only be with no lapse of time. Regarding the alleged

incident dated 30.07.2014 as stated by the Petitioner/A-1 who was even absent even as referred supra and also the short affidavit of his counsel,

could it be believed that without even filing a memo after at all that was transpired they could keep silent atleast to place the same on record of the

trial Court for prudence so required (leave about continued the arguments of accused) without waiting till 06.08.2014 that too having prepared to

file the transfer application in its filing of 04.08.2014. It shows it is subsequently for what was the discussion in open Court with regard to the

Kasab"s case and any discussion mooted by any advocate regarding factions and faction attacks there was only a general discussion and the

Petitioner later it appears want to make a mountain by showing for no even molehill by perverting and twisting the real happenings to suit to his

advantage in one way or the other to postpone the submission of the defence arguments further, even it is in the part-heard defence arguments

stage from what is discussed supra. Apart from it, the docket order of the Court, in so far as the criminal petition under Section 311 Cr.P.C. filed

by A-15 and A-16 concerned, it was filed on 09.07.2014 in C.F.R. No. 326/2014 in Crl. M.P. No. 101/2014 and it was posted on that day for

counter and hearing to 16.07.2014 and on 16.07.2014 the docket order reads:

For counter. Counter filed. Heard. Orders passed vide separate typed one. In the result the petition is dismissed.

14. The docket order when clearly speaks, it is the order passed after filing of counter and hearing of both sides, what is attributed against the

Court in the affidavit of A-1 in so far as the petition filed by A-15 and A-16 for recall of P.Ws 2 to 4 concerned as if the order was pronounced

without hearing and as if without even filing of counter and as if after dismissal the counter was asked to be filed and later received and passed the

order is untrue. It is also from the fact that, there is a seal of the Court in the counter filed by the S.H.O. through A.P.P. with his signature on

16.07.2014 in the filing papers with initial of the Court officer. The counter clearly reads that the offence was occurred on 17.08.2008, regular trial

commenced on 25.03.2010 concluded on 09.05.2012. Accused were examined under Section 313 Cr.P.C. later and 4 defence witnesses were

already examined and denovo trial in so far as additional accused A-47 and A-48 conducted commencing from 17.07.2013 to 22.02.2014 and

the petitioners A-15 and A-16 during the course of the trial did intensive and searching cross-examination of the witnesses and there are no

compelling and substantial reasons for A-15 and A-16 to recall P.Ws 2 to 4 and they are nothing to do with denovo trial so far as A-47 and A-48

and the petition is intended to drag on the matter and to cause inconvenience and harassment to the prosecution witnesses being meritless and

belated. It is therefrom the typed order is also a reasoned order and undisputedly the same was confirmed when impugned before the High Court

for went unsuccessfully by accused concerned supra. Therefore, the attribution in the transfer application filed by the A-1 in the transfer petition

No. 180 of 2014 of the alleged recall application of A-15 and A-16 dismissed on 16.07.2014 as if the Court committed a wrong and as if it was

dismissed without hearing or without even receiving counter as untrue and also running contrary to the docket proceedings of the Court which are

hastened and unchallengeable. Further, it is important to note that pursuant to the docket proceedings, there will be a B-diary that is invariably to

be maintainable so far as civil proceedings equally the regular diary in criminal proceedings at par of the docket proceedings of the matters dealt

with on that day at the closure of the day and the advocates, Advocate clerks or the parties usually note that proceedings with reference to the B-

diary entries and if there is no counter filed and as if mentioned as counter filed, A-15 and A-16 should have been filed a memo to that effect and

the same could be made atleast ground in their petition before the High Court impugning the dismissal of recall petition of P.Ws 2 to 4 who went

unsuccessful undisputedly. This also shows A-1 wants to make a ground for transfer of the case to delay the proceedings by impugning bias or

prejudice against the Presiding Officer by pelting a stone in this direction also to take a chance if possible.

15. Even so far as regular docket proceedings order dated 06.08.2014 that is also important to note that for continuation of arguments when the

matter posted from 30.07.2014 to 06.08.2014 at the request of the accused including to submit any written arguments; on that day A-2, 6, 7, 9,

12 to 15, 20, 22 to 34, 36 to 38, 41, 42, 45, 46, 47 and 48 present; the counsel for A-1, 4, 5 and 6 filed petition stating that A-1 filed the transfer

application before the High Court in which some comments made by this Court have been taken as a ground seeking transfer. The learned counsel

made a mention in the petition that in view of the comment made by the Court, it appears that the Court has to come to definite conclusion even

before the conclusion of arguments. Therefore, the learned counsel does not want to proceed with the arguments to go and as soon as the transfer

application is disposed of looking at such situation, the learned counsel for these accused may proceed with the arguments. The learned counsel for

A-2, A-7 to A-35, 38, 47 and 48 represented in the open Court that they are not parties to the transfer application and they have confidence in

this Court and they are prepared to submit the arguments. The learned Additional Public Prosecutor represented that there is no notice from the

Honourable High Court about grounds on which the transfer application is moved and there is no stay as such, therefore, the Honourable Court

may proceed with the hearing of arguments. But the learned counsel for A-1, 4, 5 and 6 is firm and does not want to submit the arguments unless

some decision taken in the transfer application. The learned counsel is a senior most counsel coming from Kurnool when such counsel make such

representation that he cannot submit arguments unless the transfer O.P. is decided, it is not fair for this Court to press the counsel to submit the

arguments. I am making this observation because, it is a sensitive the matter and the learned counsel with pain represented that the transfer

application is moved. Considering these circumstances, I am of the opinion that no prejudice will be caused to any of the parties if a week or 10

days time is granted for submitting further arguments on behalf of A-1, 4, 5 and 6. Hence, having considered the convenience of all the counsel,

posted to 21.08.2014 for further arguments of the defence. Awaiting orders from the Honourable High Court in transfer petition, call on

21.08.2014. Since this S.C. No. 475 of 2009 is amalgamated with S.C. No. 63 of 2009, independent docket need not to be maintained in

respect of S.C. No. 475 of 2009. To avoid confusion and multiplication, the docket proceedings in S.C. No. 475 of 2009 are hereby closed.

16. From these docket proceedings also even there is no whisper in the application made by the counsel for A-1, 4, 5 and 6, of what are the

remarks made in the transfer application on what grounds, but for saying some comments made by the Court have been taken a ground for moving

transfer. Even from that the docket proceedings of the learned trial Judge dated 06.08.2014 supra shows a positive approach of the judicial officer

without even a little prejudice and without even hearing though the other accused A-2, 7 to 35, 38, 47 and 48 want to submit their arguments in

saying they are nothing to do with transfer application moved by A-1, the Court granted time of 15 days till 21.08.2014 by relying on submission

made by counsel for A-1 who is also counsel for A-4, A-5 and A-6.

17. In this back ground, it is important to come to the transfer application moved in Transfer Criminal Petition No. 186 of 2014 on 11.08.2014

only (which is five days after the said docket order of the Court dated 06.08.2014) that was even filed by A-5, 6, 9, 12 to 14, 17, 18, 20, 22 and

23. It is important to note in this juncture that, though as per the docket proceedings dated 06.08.2014 but for A-1, 4 to 6 the others stated

nothing to do with, the A-7 to 35, 9, 12 to 14, 17, 18, 20, 22 and 23 moved the transfer application for reasons better known with self same

averments of the transfer application of A-1 to lend support to that with self same averments therein also with their respective affidavits in same

line. These facts do not require repetition, but for to say it appears despite on 06.08.2014 from the docket proceedings which are sacrosanct and

unchallengeable and even not challenged muchless disputed by filing any memo of its correctness immediately after 06.08.2014; those who wanted

to submit arguments on 06.08.2014 saying they were not parties to earlier transfer application and got confidence in the Court to proceed with

their submission of arguments, however turned round in saying in the line of the attributions made by A-1 in his transfer application No. 180 of

2014 in their said application No. 186 of 2014. Similar is the case with reference to the transfer application moved on even date by A-4, 8, 10,

11, 15, 16, 24, 26 to 31, 33 to 37, 31 and three more persons among the accused with self same averments of the transfer application of A-1 in

Tr. Crl. P. No. 180 of 2014 and the others referred supra in Tr. Crl. P. no. 186 of 2014 though they were also some of them expressed ready to

submit arguments before the trial Court for the defence, continuation of arguments on 06.08.2014; turned round in moving the transfer application.

A perusal of the docket proceedings of the Court shows empty of the petitions filed by the accused persons covered by separate dockets and

orders passed on merits including those allowing in their favour mostly to say that the trial judge has no even little prejudice muchless bias. These

facts clearly speak there is an attempt on the part of the accused to recuse to prolong the matter and to avoid disposal.

18. The Apex Court in the expression in R.K. Anand V. Delhi High Court observed that bench hunting or bench hoping or bench avoiding could

not be allowed. It was by referring to it in the very recent expression in Subrata Roy Sahara V. Union of India it was observed that it is the duty of

the senior counsel to make submissions that reflect the true factual position known to them. Making of baseless allegations or insinuations against

Court and attempts to overawe the Court with psychological offensives and mind games, with ferocity and grandiloquence, without any factual

basis held strongly repulsed and stringently deprecated. It was also observed that the senior counsel who represented that the petitioner therein

were surely insincere to the cause of justice when they drummed their assertions without blinking an eye: since they were aware that the factual

position was otherwise. Such submissions held unimaginable and they surely ought to have known better because they had appeared in the

contempt proceedings in defence of the contemnors and were aware of all the facts. It was referring to Advocates Act Sections 16 and 36 the

observations were made including in respect of any solemn duty of judiciary with observations that in the judicial process demand for recusal by

Judge on baseless and unfounded insinuations, calculated psychological offensives and mind games adopted by counsel to seek recusal of Judges,

held need to be strongly repulsed as done herein and such tactics deprecated and similar approach commended to other Courts when they

experience such behaviour. It was also held any act of bench-hunting or bench-hopping or bench-avoiding cannot be allowed. Judge not to recuse

himself from the matter unless he/she should not be hearing it for reasons of direct or indirect involvement. The benchmark that justice must not

only be done but should also appear to be done, has to be preserved at all costs. Even in the face of calculated psychological offensives and mind

games as adopted by counsel in the present case, oath of office of Judge, to decide every case without fear or favour, requires the Judge

concerned to press on with the hearing of the matter and bear the brunt of rhetoric of the counsel or party seeking to dissuade him/her from hearing

the matter. Fearlessness and resoluteness of the judiciary with equanimity be there. It was also observed that the need for plea of bias or prejudice

must be a genuine one. In the absence of a genuine plea of bias, Judge recusing himself from the matter would constitute an act in breach of oath of

office of the Judge which mandates the Judge to perform duties of his office, to the best of his ability, without fear or favour, affection or ill will.

There is a duty of Judge not to recuse himself unless there is genuine likelihood of bias. The prayer for recusal from matter even on the ground of

possible embarrassment or discomfort to hearing the bench has to be rejected. On facts, it was held that the Petitioners plea for recusal of present

bench was consciously calculated to prolong the proceedings noting that the present bench was well versed with the entire facts of the case and

such recusal is deprecated stringently and seeing through the ploy, plea for recusal thereby rejected. It was observed that there is a duty to decide

all cases without fear or favour and also equal duty to repulse calculated psychological offensives and mind games to intimidate Judges to seek their

recusal.

19. The decision placed reliance by the counsel for the transfer petitioners of the three transfer applications is earlier two Judge Bench in Satish

Jaggi V. State of Chhattisgarh reads that though the present Judge showed no disinclination to hear the matter and would have acted in true sense

of a judicial officer, still in order to ensure that justice is not only done but also seen to be done, and considering the peculiar facts of the case, it

would be appropriate if the High Court transfers the case to some other Sessions Court.

20. In fact in Sahara supra it is the categorical observation that in prayer for recusal from the matter even on the ground of possible embarrassment

discomfort to hearing at the bench has to be rejected. It is also observed that a Judge recusing from the matter of hearing would constitute act of

breach of oath. In Gurcharan Das Chadha V. State of Rajasthan placed reliance in Satish Jaggi supra, it was held that a case is transferred if there

is a reasonable apprehension on the part of a party to a case that justice will not be done. The Court has further to see whether the apprehension is

reasonable or not. The Apex Court also said that to judge the reasonableness of the apprehension, the statement of mind of the person who

entertains the apprehension is no doubt relevant but that is not at all. The apprehension must not only be entertained but must appear to the Court

to be a reasonable apprehension.

20(a) It was held in Maneka Sanjay Gandhi V. Rani Jethmalani that assurance of a fair trial is the first imperative of the dispensation of justice and

the central criterion for the Court to consider when a motion for transfer is made is not the hypersensitivity or relative convenience of a party or

availability of legal services or any like grievance. Something more substantial, more compelling, more imperiling, from the point of view of public

justice and its attendant environment, is necessitous if the Court is to exercise its power of transfer. This is the cardinal principle although the

circumstances may be myriad and vary from case to case.

20(b) In Abdul Nazar Madani V. State of T.N. the Apex Court stated that the purpose of the criminal trial is to dispense fair and impartial justice

uninfluenced by extraneous considerations. The apprehension of not getting a fair and impartial inquiry or trial is required to be reasonable and not

imaginary based upon conjectures and surmises. No universal or hard-and-fast rules can be prescribed for deciding a transfer petition which has

always to be decided on the basis of the facts of each case.

20(c) In G.X. Francis V. Banke Bihari Singh the Apex Court found that the local atmosphere was not conducive to a fair and impartial trial which

justified a good ground for transfer.

20(d) In Pal Singh V. C.B.I. the Apex Court while considering the fact that large number of witnesses had been examined and few more witnesses

were left to be examined, set aside the order of the High Court transferring the case from one Sessions Court to another. The High Court was,

therefore, held to be not justified in entertaining the petition for transfer.

21. The contention of the counsel for transfer petitioners herein that the Judge in the remarks did not mention that he is not interested in disposal of

the case and it may be transferred to another Court itself is a ground to suspect for the accused of the Judge having prejudicial mind is quite

untenable, more particularly from the expressions in Anand and Sahara supra, which speaks that a Judge acts on oath in discharge of his solemn

duty can act fairly and fearlessly even unmindful of attempts to recuse.

22. In fact in Para No. 3 of the Judgment of Sathish supra there was a reference in Palsingh where the Apex Court categorically held that when the

matter is at the fag end of trial for few more witnesses to be examined, it is not just to transfer the case.

23. Here, in the case on hand, it is not only the trial in fag end but also the additional accused impleaded, and denovo trial conducted for them and

several witnesses on applications were recalled and permitted for further cross-examination by defence also entered and after examination of under

Section 313 Cr.P.C. and examined four witnesses on their side besides applications for further recall were some allowed and arguments of

prosecution completed and defence arguments heard in part and it is at the stage of continuation of the defence arguments including filing of written

arguments having taken time from 30.07.2014 to 06.08.2014 by attributing for the first time in the nearly 2 and a half years of the service of the

judicial officer there, who dealt with the case all through it is nothing but to avoid the case before him in the browbeating attempt. Hence, such

attempt of the transfer petitioners cannot be permitted to subserve the ends of justice under the guise of prejudice or bias by invoking Section 407

Cr.P.C.

24. It is important to note in this context the solemn duty of the Judge also vis-Ã¯Â¿Â½-vis the Advocate vis-Ã¯Â¿Â½-vis the parties who are approaching

the Court for Justice to repose confidence and respect the Court of law in the clay for Justice, that COURT-VIS-Ã¯Â¿Â½-VIS-JUDGE

(A) COURT: Court is an agency and legal entity created by the sovereign for purposes of administration of justice. When a judge takes his seat in

court, the court is said to have assembled for administration of justice. Thus, court is a generic term and embraces a judge. Judge is an essential

constituent of a court for dispensing Justice, since there can be no dispensation of justice, without a Judge. It may be for that reason even in the

preamble of the Constitution of India only Justice is referred and not Court.

In Kesab Narayan Banerjee Vs. State it was held that the word Court is of very wide connotation. In legal parlance it indicates a place where

justice is judicially administered. A court as an incorporeal being, which requires for its existence the presence of Judge/Judges-was the

observation in Supreme Court Legal Aid Committee rep. U.T. Prisoners Vs. Union of India.

(B) JUDGE: The term Judge is arisen from the Latin term Ju-dex means the judicial power which examines the truth of the facts, the law arising

upon it and applies remedy for the same. Further, the meaning of the Latin term which speaks of a judge''s duty i.e., JUS-DICERE is to pronounce

a legal decision or Judgment. The term Jus-means right conduct. The term Dex-means decision making. The term Just is also derived from the

Latin term Jus-tus.

(C) JUS: The word Jus is thus interrelated to the words Just, Jus-tus, Jus-dicere, Justice, Justiciary and Justice-ship.

(D) JUST: The word Just-means-impartial, reasonable, fair, upright and equitable. Thus, a Judge-whose duty is judging a lis, thereby-expected of

the standard of a right human conduct on which the society sustain.

(E) JUSTICE: The word Justice means the quality of ever being just, fair and reasonable. It is also thereby given as the title of a Judge. Justiciary is

thus an administrator of justice in contrast to Justice-ship is the dignity of office of a judge.

(F) The Armory of Law is to deliver justice fairly and impartially to those aspire. Law is thus a means to an end and Justice is that end.

(G) Justice is the ideal to be achieved by law; justice is the goal of law, law is a set of general rules applied in the administration of justice. Law as it

is may fall short of law as it ought to be for doing complete justice. The gap between the two may be described as the field covered by morality.

To be perfectly just in delivering justice is an attribute of a divine nature to be so to the utmost of our abilities is the glory of man. It is the spirit

which motivates the judiciary to strive to realise its full potential and convert it into kinetic energy QUOTE BY ADDISON.

(H) The Judgeship is in fact an office of public trust. Dispensation of justice is an attribute of God. It is guided by the Rule Fiat Justitia ruat coelum

to mean let justice be done though heavens should fall.

(I) As per Blackstone Judges are the depositories of Law; the living oracles who must decide in all cases of doubt, and who are bound by an oath

to decide according to Law of the land. Their knowledge of that Law is derived from experience and study and from being long personally

accustomed to the judicial decision of their predecessors.

(J) DECISION: A decision doesn''t mean a mere conclusion. It embraces within its fold, the reasons which form the basis for arriving at the

conclusions. It is the decision-which meets on all the points in dispute that arise for determination Sohal Lal V. Satnam Singh Tirumalasetty

Rajaram V. T.R.K. Chetty.

(K) DECISION MAKING: Decision making must be an out come from clarity in mind and in this process for mind to know we must have to

hear, think, feel and visualize. It not only requires Wisdom and skill but also virtue.

(L) In (2003)7 SCC-750 at Para 35 it was held by the Apex Court that Justice has no favorite, except the truth.

(M) As per Justice R.P. Sethi in In Re: Arundhati Roy, -that if the Judiciary is to perform its duties and functions effectively and true to the spirit

with which they are sacredly entrusted, the dignity and authority of the Courts have to be respected and protected by all costs. No person can flout

the mandate of law of respecting the Courts for establishment of rule of law cloak of freedom of speech and expression guaranteed by the

Constitution.

(N) No doubt, Law floats on a sea of ethics, in a civilized society. Thus, both ethics and law are essential for a Judge. It evokes a duel

responsibility on every Judge not only to be well versed with law and case facts in its application, but also moral rectitude and disciplined life. Thus,

we shall resolve to be honest at all events by testing our activity in the touch stone of productivity to uphold common mans faith.

(O) To argue a case looking to only one side of the case is different from taking of a balanced view from case of both sides, which is expected of a

Judge to do.

Judging is not merely a job, but a way of life based a spiritual wealth that includes by obligation of an impartial search for truth.

(P) The greatest legal engine is ever invented for discovery of truth from the well-known saying that-Trial is a voyage in which trust is the quest-

reiterated in by the Apex Court in-Ritesh Tiwari Vs. State of UP. The entire judicial system has been created only to find out the truth as Truth

alone triumphs, not falsehood. Through truth, the divine path is spread out by which the sages, whose desires have been completely fulfilled, reach

where that supreme treasure of truth resides. Thus, it is the bounden duty of Judges in the journey of trial/enquiry to discover truth by application of

procedural and adjectival law to decide the substantial rights-Vide decision-Maria M.S. Fernandes Vs. Erasmo J. De Sequerio.

(Q) Appreciation of Evidence is a judicial function and there shall not be any element of arbitrariness in appreciating the evidence. The logic behind

appreciation of evidence is A Judge who know nothing about the cause outside the four wall of the Court, but for what is brought to his notice by

pleadings and evidence in proof of facts under controversy, can reasons and decide well. It is also in fact the logic behind the bane of justice.

(R) It is apt to refer the recent expression of the Apex Court in Om Prakash Chautala Vs. Kanwar Bhan-at Paras-19 & 20 that, A Judge should

abandon his passion. He must constantly remind himself that he has a singular master duty to truth and such truth is to be arrived at with the legal

parameters. No heroism, no rhetorics. A Judgment has rhetorics but the said rhetoric has to be dressed with reason and must be in accord with

legal principles, otherwise may likely to cause injustice.

(S) In Mrchchakatika (Arka-9: Sloka 5) says A Judge must be thoroughly conversant with the code of the law; expert in detecting deceit and an

eloquent speaker. He must never lose his temper and must be impartial to friends, strangers or relatives. He must base his decision on the

examination of actual happenings. He must have regard for higher morality and must not be swayed by greed; at the same time, he must be strong

enough to protect the weak and instill fear into the hearts of the wicked. His mind must be set on discovering the highest truth by every possible

avenue. And he must avoid the anger of the king.

(T) Lord O''Brien in King (De Vosci) v. Justice of Queen''s Country observed as follows: By bias I understand a real likelihood of an operative

prejudice, whether conscious or unconscious. There must in my opinion be reasonable evidence to satisfy us that there was a real likelihood of

bias. I do not think that their vague suspicions of whimsical, capricious and unreasonable people should be made a standard to regulate our action

here.

(U) In Manak Lal Vs. Dr. Prem Chand, -it was held thus: ""But where pecuniary interest is not attributed but instead a bias is suggested, it often

becomes necessary to consider whether there is a reasonable ground for assuming the possibility of bias and whether it is likely to produce in the

minds of the litigant or the public at large a reasonable doubt about the fairness of the administration of justice. It would always be a question of

fact to be decided in each case. "The principle", says Halsbury, "nemo debet esse judex in causa propria sua precludes a justice, who is interested

in the subject-matter of a dispute, from acting as a justice therein". In our opinion, there is and can be no doubt about the validity of this principle

and we are prepared to assume that this principle applies not only to the justices as mentioned by Halsburys but to all tribunals and bodies which

are given jurisdiction to determine judicially the rights of parties.

(V) In Ranjit Thakur v. Union of India p. 618, para 17 the law was stated by Venkatachaliah, J. (as he then was) as under: ""As to the tests of the

likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the

judge is not to look at his own mind and ask himself, however, honestly, "Am I biased?"; but to look at the mind of the party before him.

(W) Reference was made therein to a dictum laid down by Justice Frankfurter in Public Utilities Commission of the District of Columbia v. Pollak-

96 L Ed 1068 (1961) which is reproduced as under: ""The judicial process demands that a judge move within the framework of relevant legal rules

and the covenanted modes of thought for ascertaining them. He must think dispassionately and submerge private feeling on every aspect of a case.

There is a good deal of shallow talk that the judicial robe does not change the man within it. It does.

25. The fact is that on the whole judges do lay aside private views in discharging their judicial functions. This is achieved through training,

professional habits, self-discipline and that fortunate alchemy by which men are loyal to the obligation with which they are entrusted. But it is also

true that reason cannot control the subconscious influence of feelings of which it is unaware. When there is ground for believing that such

unconscious feelings may operate in the ultimate judgment, or may not unfairly lead others to believe they are operating, judges rescues themselves.

They do not sit in judgment.

26. Benjamin N. Cardozo in his book The nature of the Judicial Process quotes that Every judgment has a generative power and it begets in its

own image. The Judge even when he is free is still not wholly free. He is not to innovate at pleasure; he is not a knight-errant at will in pursuit of his

own ideal beauty or goodness.

27. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He

is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system and subordinated to the primordial necessity of

order in social life. Wide enough in all conscience is the field of discretion that remains.

28. If you ask how he is to know when one interest outweighs another, I can only answer that he must get his knowledge just as the legislator gets

it, from experience, study and reflection, in brief, from life itself.

29. To keep an open mind is a judicial virtue. The combined discourse of the pros & cons by hearing and considering the case of both sides

whether represented by an efficient advocate or not, mind to appreciate, weigh, balance and decide the correct means to apply, it is here a Judges

basic legal equipment sharpens his practical perception, application and judgment.

30. The Judge has to bear in mind his duty to study decisions cited with utmost care and cannot deal with the same cursorily or off the cuff; and

cannot ignore lightly, or in relying or not, simply read and quote only head note of a citation, which in fact is not the decision but for the publishers

opinion culled out from the text of decision. It is well said by Justice-Cardozo that, it is not mere matching colour of one case against the colour of

another. It is by reading the decision and the principle laid down there in as a precedent, has to consider its applicability or not on the factual matrix

of the case from the settled law that there are no precedents on facts particularly in criminal cases for no facts of two cases be same or generally

even similar and for a little difference in facts or from additional facts may make a lot of difference in the precedential value of a decision which tilts

the result. Thus, a decision cannot even be relied upon without disclosing the facts situation as a decision is an authority for what it actually decides

and thus, it must be read and decided with reason as to how it is applicable or how not-applicable has to be discussed or if distinguished even may

be mentioned the reason in brief.

31. Unswerving-devotion to justice and impartial, bold and fearless delivering of justice will automatically be recognized and respected. A Judge

should be conscientious, studious, thorough, Courteous, patient, punctual, just, impartial, regardless of public clamour or praise and indifferent to

any private, political or partisan influences.

31(a) Judex bonus nihil ex arbitrio suo faciat, nec propositione domestic voluntatis, sed juxta leges et jura pronunciet: A good judge should do

nothing of his own arbitrary will, nor on the dictate of his personal inclination but should decide according to law & justice.

31(b) A Judge shall like any other human being of values recollect the three moral principles quoted by Mano that Anabidhya Parasweshu;

Sarwasatyeshu Sowhrudam; Karmanam Phalamastiti Manasa tritiyam chereth to mean-Not to crave for others wealth; must have kind and

compassionate to all beings and must be impartial with the inner conscious always that he shall be responsible to his actions.

31(c) The Latin maximQui aliquid statuerit parte in andita altera, acquaem licet dexerit, haud acquum fecerit-to mean-Justice should not only be

done but should manifestly be seen to be done.

31(d) Once cannot forget that a subordinate judicial officer works mostly in a charged atmosphere. He is under a psychological pressure-

contestants and lawyers breathing down his neck. If the fact that he renders a decision which is resented by a litigant or his lawyer were to expose

him to such risk, it will sound the death knell of the institution. Judge bashing has become a favourite pastime of some people. There is growing

tendency of maligning the reputation of judicial officers by disgruntled elements who fail to secure an order which they desire. For functioning of

democracy, an independent judiciary, to dispense justice without fear and favour is paramount. Judiciary should not be reduced to the position of

flies in the hands of wanton boys-(Vide: L.D. Jaikwal v. State of U.P. K.P. Tiwari v. State of Madhya Pradesh Haridas Das v. Smt. Usha Rani

Banik and In Re: Ajay Kumar Pandey).

31(e) Justice Dharmadhikari instructed in the Art of writing judgment that every judge shall prepare a draft of judgment and he shall give respect to

his own intuition and consult your intuition to rethink from the draft judgment and make it as fine tune, if necessary, by re-drafting it before

delivering judgment.

31(f) As per Justice Fasul Ali, the approach of a Judge is three dimensional viz. 1) Hearing of parties 2) Marshalling of facts and evidence and

application of judicial mind to the facts of the case and 3) The last and most important and difficult task is decision making process, for that a Judge

should apply his mind slowly, carefully and think over the problem, ponder over, deliberate and concentrate over them before coming to a

decision.

31(g) A Judgment is an end product of the judicial exercise and effort that makes the terminal point of litigation at that Court. The Judge shall take

every care in writing a judgment. It reflects the majesty of law and it should evoke a sense of respect. The image of judiciary is dependent upon

delivery of good judgments. A Judge neither rewards virtue nor chastises vice. He only administers even-handed justice. Sentiment is a dangerous

one to take it guide. He shall not allow himself to be carried by his sympathy for either party. He should not allow any relationship or friendship to

influence his judicial conduct. It is easy to be kind but difficult to be just, both must combine in equal proportion. A Judge should not have any

policy, but shall have philosophy.

31(h) Sir B. Lizington said, If Judges would make their decisions just, they should be held neither plaintiff, nor pleader, but only the cause itself.

31(I) DUTY OF ADVOCATE TO COURT: An Advocate is not a mouth piece of his client. It is apt to refer the solemn duty of an advocate laid

down in the WAREVELL''S BOOK ON LEGAL ETHICS at page 182 that a lawyer is under obligation to do nothing that shall detract from the

dignity of the court of which he himself is a sworn officer and assistant. He should at all times pay differential respect to the judge and scrupulously

observe the decorum of the court room. Judicial function cannot and should not be permitted to be stone walled by browbeating or bullying

methodology whether it is by litigants or by council.

31(J) RESPECT FOR LAW: The apex court in Ramachandra Ganpat Shinde V. State of Maharashtra paras 12 and 13 and Satya Brata Biswal

V. Kalyan Kumar Kisku by referring to several expressions and famous quotes observed as follows:-

Respect for law is one of the cardinal principles for an effective operation of the Constitution, law and the popular Government. The faith of the

people is the source and succor to invigorate justice intertwined with the efficacy of law. The principle of justice is ingrained in our conscience and

though ours is a nascent democracy which has now taken deep roots in our ethos of adjudication-be it judicial, quasi judicial or administrative as

hallmark, the faith of the people in the efficacy of the judicial process would be disillusioned, if the parties are permitted to abuse its process and

allowed to go scoot free. It is but the primary duty and highest responsibility of the Court to restore the confidence of the litigant public, in the

purity of fountain of justice; remove stains on the efficacy of judicial adjudication and respect for rule of law, lest people would lose faith in the

Courts and take recourse to extra constitutional remedies which is a death-knell to the rule of law.

31(K) In Yoginath D. Bagde v. State of Maharashtra, it was held:

The Presiding Officers of the Court cannot act as fugitives. They have also to face sometimes quarrelsome, unscrupulous and cantankerous litigants

but they have to face them boldly without deviating from the right path. They are not expected to be overawed by such litigants or fall to their evil

designs.

31(L) As well said by Benjamin Disraeli-A law is something which must have a moral basis, so that there is an inner compelling force for everyone

to obey.

32. Having regard to the above by impressing on the learned trial Judge as well as learned defence counsel as well as the respective accused by

leave about any little inconveniences from these transfer applications moved and the respective averments made which no way coming in the way

muchless to influence them in particular the trial Judge for his impartial disposal of the case on own merits, the learned trial Judge shall make every

endeavour to complete the defence arguments and pronounce judgment as per law.

33. In the result, the petitions are dismissed.

34. The miscellaneous petitions, pending if any, shall stand closed.