

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.4770 OF 2015

Swararaj @ Raj Shrikant Thackeray

..Petitioner

Versus

The State of Maharashtra

..Respondent

Mr. A.S. Shirodkar & S.D. Nangre a/w Aruj S. Shejwal,
Advocates for the petitioner

Mr.S.B. Yawalkar, APP for the respondent/ State

**CORAM : A.V.NIRGUDE &
V.K.JADHAV, JJ.**

DATED : 30.10.2015

P.C. :-

1. The applicant is popularly known as Raj Thackeray who is a political leader of a party by name "Maharashtra Navnirman Sena". He is accused No.10 in RCC No.97 of 2009, which is registered pursuant to charge sheet filed in Crime No.257 of 2008 registered with Jalna Police Station. The complainant alleged that the followers of the applicant committed offence of rioting and wrong restrain, causing mischief to public property etc on 21.10.2008. Admittedly the applicant was not present when the incident took place. He is made accused in this case only because it is alleged that the applicant made a speech somewhere else and because of

such speech his followers got excited and they committed offence. It is alleged that by making such speech the applicant abetted this offence.

2. On going through the provisions of Section 107 of Indian Penal code, we realized that the allegations made against the applicant would not amount to abetment. No material is brought on record to show that certain speech was made, the speech was provocative and that the speech was heard by other accused of this case. Unless the nature of utterance in the speech are brought on record in the charge sheet, the Police could not have roped in the applicant as an accused. When the charge sheet was filed the learned Magistrate ought to have realized this and ought to have refused to take cognizance of the case as against the applicant.

3. The criminal application therefore succeeds. The criminal application is allowed. RCC No.97 of 2009 arising pursuant to Crime No.257 of 2008 registered with Jalna Police Station is quashed as against the applicant.

[V.K.JADHAV, J.]

[A.V. NIRGUDE, J.]