

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
Criminal Application [APL] No. 2 of 2015
[Atul Gangadharrao Ganyarpawar Vs. State of Mah]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. R. N. Badhe, Adv., for the Applicant.
Mr. T.A. Mirza, APP for respondent.

**CORAM : A.B. CHAUDHARI AND
P.N. DESHMUKH, JJ.**

DATE : 13nd March, 2015.

Learned counsel for the Applicant vehemently argued that this Court ought to entertain the present application under Section 482 of the Code, since a clear cut case or rather a cast iron case is made out for interference in the matter of First Information No. 3006/14 registered with Police Station, Chamorshi, for offences punishable under Sections 7, 12 and 13 (1) (d) read with Section 13 (2) of the Prevention of Corruption Act, 1988. He further submitted that he would like to address the Court on the merits of the FIR and, therefore, the applicant should be allowed to address the submissions on merits of the matter.

Per contra, Mr. Mirza, learned APP, invited our attention to paras 3 and 4 of the Reply-Affidavit which we quote the same hereunder:-

2

“3. It is further submitted that after receiving the complaint of said contractor, Anti Corruption Bureau, Nagpur laid a trap and caught hold the present applicant with raid handed while demanding and accepting bribe amount from the complainant.

4. It is further submitted that trap party, Investigating Agency completed the due formalities of trap and seized the amount of Rs. 5,00,000/- [five lacs] and the cheque of Rs. 8,00,000-00 [eight lacs] from the present applicant. The Investigating Agency after completion of the formalities prepared a charge-sheet and is filed before the Special Court, Gadchiroli vide Special Case No. 1/2015 on 15.01.2015.”

This is a case where the allegation is, the Chairman of the Market Committee, namely the present Applicant, demanded a bribe amount of Rs. 13,00,000-00, out of which Rs.5,00,000-00 were to be paid in cash while the remaining amount of Rs. 8,00,9000-00, by a self cheque. Accordingly, during raid, the applicant was caught red handed while accepting Rs.5,00,000-00, so also the cheque was seized.

In view of the prima facie material, we do not think that this is a fit case where the jurisdiction under Section 482, Criminal Procedure Code, should be exercised, since it is a well settled legal position that the jurisdiction has to be exercised sparingly and that too in fit cases.

Mr. Mirza then informed this Court that the prosecution has already filed a charge-sheet in the Court. That is another reason why we think, appreciation and marshaling of evidence cannot be done as it falls outside the realm of an application under Section 482, Criminal Procedure Code, and therefore, we think the applicant should be relegated to alternate remedy, instead of exercising power under Section 482, Criminal Procedure Code.

That being so, we make the following order:-

ORDER

- [a] Criminal Application No. 2 of 2015 is not entertained and is dismissed, reserving liberty in favour of the applicant to take such steps as are available in law in view of filing of charge-sheet.
- [b] If any such application is made, Trial Court shall decide the same uninfluenced by any of the observations made by this Court.

Judge

Judge