

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Application (APL) No. 343 of 2015

(Sanjay Ramlal Umale and ors. Vs. State of Mah. Through P.S.O., Old City Akola, Tq. and Dist. Akola)

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

Court's or Judge's orders

Shri H. M. Mohta, Advocate for applicants
Shri V. A. Thakare, APP for the State/non-applicant

CORAM : A. B. CHAUDHARI, J.

DATED : 10-6-2015

Heard learned counsel for the rival parties.

Citing the decision of the Single Bench of this court in the case of *Ambadas Kashirao Kharad Vs. State of Maharashtra* reported in *2007 ALL MR(Cri) 1916*, learned counsel for the applicants argued that the trial Judge ought to have heard the application before framing of charge that was framed in January, 2015. Learned counsel for the applicants fairly states that the applicants have lately approached this Court, but then if the opportunity of hearing before framing of charge is not given, the applicants would be put to miscarriage of justice.

Per contra, learned APP submits that there is a provision for alteration of charge and since the charge has already been framed and witnesses have already been examined yesterday, it would not be proper to interfere at this stage.

Upon hearing the counsel for rival parties, in the above background, I pass the following order.

ORDER

Criminal Application (APL) No. 343/2015 is disposed of reserving liberty in favour of the applicants to

move trial court for alteration of the charge if so advised, but then that should be done by the next date of hearing.

JUDGE

wasnik