

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

CRIMINAL WRIT PETITION No. 480 OF 2014

Manish s/o Amarchand Mehta,
aged about 42 years, Occ.: Business,
r/o Bhaji Mandi, Itwari,
Nagpur.

.... **PETITIONER.**

VERSUS

1. Shrikant Gopal Mandyan,
aged about 55 years, Occ.: Service,
r/o Flat No. S-2, Laxmi Krupa Apartments,
Plot No. T-7, Laxmi Nagar,
Nagpur.

2. State of Maharashtra
through P.S.O. Tahsil Police Station,
Nagpur.

.... **RESPONDENTS.**

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Mr. A.N. Ansari Advocate for the Petitioner.
Mr. Masood Shareef Advocate for respondent no. 1.
Mr. A.K. Bangadkar, Addl. Public Prosecutor, for Respondent no. 2.

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CORAM : V.M. DESHPANDE, J.
DATED : 06.10.2015.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally

by consent of parties.

2. Heard Shri Ansari, learned counsel for the petitioner, Mr. Masood Shareef, learned counsel for respondent no. 1 and learned APP for respondent no. 2.

3. By the present petition, the petitioner is challenging the order dated 17.4.2014 passed below Ex.8 in Cri. Revi. No. 14/14 by the learned 2nd Additional Sessions Judge, Nagpur, thereby rejecting the prayer of the petitioner to intervene in the matter, however permitted him to file written notes of arguments to assist the prosecution.

4. Undisputedly, present petitioner is the complainant. An application under Section 156(3) of Code of Criminal Procedure was filed by the petitioner which was allowed by the learned Magistrate. The said order was carried by the present respondent no. 1 in revision which was rejected.

5. During the pendency of criminal case, an application for discharge was moved by respondent no. 1. The said application did not find favour with the learned Magistrate and,

therefore, being aggrieved thereby a revision was carried , which was numbered as Criminal Revision No. 14 of 2014. Copy of the said revision is placed on record which shows that respondent no. 1 had only joined State of Maharashtra, through P.S.O. police station Tahsil police station, Nagpur as respondent. On getting knowledge of filing of such revision, an application was moved on behalf of the petitioner in the said revision for directing the applicant to be added as party respondent. Said application is at Ex.8. The said application was partly allowed by the revisional Court.

6. In view of sub-section (2) of Section 301 Cr.P.C. the complainant has a right to assist the Public Prosecutor by filing written submissions. However, in the present case, one cannot forget the fact that the present petitioner was joined as a party-respondent in the earlier round of litigation. Now, if the present petitioner is joined as a party, no prejudice would be caused to respondent no. 1. Even otherwise, principle of natural justice demands that the person on whose complaint the offence is registered, has a right to argue and submit his case independently. In that view of the matter, writ petition deserves to be partly allowed. Hence, I pass following order.

ORDER

- (i) Writ petition is partly allowed.
- (ii) Order passed by the learned 2nd Additional Sessions Judge, Nagpur, on 17.4.2014 below Ex.8 in Cri. Revision No. 14/14 is quashed and set aside. Application Ex.8 stands allowed.
- (iii) Present petitioner be joined as respondent no. 2 in Criminal Revision No. 14 of 2014.

Rule is made absolute in aforesaid terms.

JUDGE

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