

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
Criminal Application [APL] No. 557 of 2011
[Mohammad Arif Ashruf Ul Haq Vs. State of Mah. & another]

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

Court's or Judge's orders

Mr. Yogesh Shukla, Adv., for the Applicant.
Mr. T.A. Mirza, APP for Respondent No.1.

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

DATE : 05th February, 2015.

Mr. Yogesh Shukla, learned counsel for the Applicant, submits that the Magistrate has no jurisdiction to take cognizance of the offence, for which a Special Court is set up under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989. He, therefore, submits that the cognizance taken by the Magistrate is wholly without jurisdiction and, therefore, the impugned order should be set aside.

Learned APP Mr. Mirza cited the decisions in the cases of [1] **M.A. Kuttappan Vs. E. Krishnan Nayanar & another** [(2004) 4 SCC 231], and [2] **Gangula Ashok & another Vs. State of A.P.** [(2000) 2 SCC 504] and opposed the application.

We do not find any reason to interfere, since it is only the Magistrate who has taken cognizance even in respect of a special case and the same is governed by the Criminal Procedure Code. The Magistrate is supposed to take cognizance and then if he finds that the case is triable by the Sessions Court or a Special Court, he is supposed to commit the same in accordance with the provisions of the Code. However, we find that the Applicant has an alternate remedy of filing a Revision before Sessions Court. We, therefore, make the following order:-

ORDER

Criminal Application No. 557 of 2011 is dismissed, reserving liberty in favour of the Applicant to take such steps as are available in law.

Interim stay is vacated.

Judge

Judge