

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO. 823 OF 2014

(Dr. Surekha Suhas Borle vs. State of Maharashtra thr. PS Malkapur, Dist. Buldhana & Anr.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
JUNE 29, 2015.**

Heard Mrs. Chaudhari, learned counsel for the applicant, Shri Mirza, learned APP for respondent No. 1 and Shri Shriniwas Deshpande, learned counsel (appointed) for respondent No. 2.

The learned counsel for the applicant submits that in the light of Government Resolution dated 26.03.2010, cognizance of FIR itself is vitiated. The submission is, without calling for report of Experts, cognizance cannot be taken.

The learned APP invites attention to the orders of this Court dated 23.12.2014 and submits that report of Experts has been received and the Expert Committee has found the petitioner not guilty of any negligence.

According to learned counsel for respondent No. 2, the judgment of the Hon'ble Apex Court in the case of Martin F. D'Souza vs. Mohd. Ishfaq, reported at AIR 2009 SC 2049 and other judgments necessarily deal with the complaints filed by victim before Consumer forum or then private complaints before the competent Criminal Court. He contends that the

matters in which post mortem or other similar forensic exercise is necessary, are not covered by the judgment of the Hon'ble Apex Court.

The learned counsel for the petitioner and the learned APP dispute this.

As the Police has now received report of Expert Committee, it is apparent that after its due evaluation, Police will take action in accordance with law.

Hence, with said direction to the Police authorities, we dispose of the present application. No costs.

Charges for the learned counsel (appointed) for respondent No. 2 are fixed at Rs.1,500/- (Rs. One thousand five hundred) only.

JUDGE

JUDGE

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