

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

**Criminal Application [APL] No.826 of 2014**

*(Firojkhan Ajikhhan and another*

*vs.*

*State of Maharashtra, through P.S.O. Sakkardara, Nagpur and another)*

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

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Court's or Judge's Orders

*Ms. D.K. Gawali, Advocate for the Applicants.*

*Mr. S.S. Doifode, A.P.P. for Non-Applicant No.1.*

**CORAM : A.P. BHANGALE AND  
P.N. DESHMUKH, JJ.**

**DATE : JULY 20, 2015.**

By this application under Section 482 of the Code of Criminal Procedure, the applicants have prayed for to quash and set aside the F.I.R., which was registered as Crime No.221/2013 reported at Sakkardara Police Station, Nagpur under Section 307 read with Section 34 of the Indian Penal Code further read with Sections 3 and 25 of the Arms Act and further read with Section 135 of the Mumbai Police Act.

According to the learned Counsel for the applicants, the proceedings against the applicants are abuse of the process of law and, therefore, the F.I.R., reported as above, be quashed and set aside.

We have perused the copy of F.I.R. annexed to the application. It *prima facie* appears that the accusation is serious. Though the name of the applicants did not figure in the F.I.R.,

according to the prosecution, in the supplementary statement, their role in the crime was revealed and at the instance of accused Mujahid in the crime, pistol was allegedly discovered. It is stated that the investigation is complete and charge-sheet is about to be filed. In the supplementary statement of one Wasim alias Raja Khan, dated 25/10/2013, it is alleged that a notorious of Tajbagh namely Aabu, his brothers Jakir and Amjad were also present near the car and thereafter when Akram and Mujahid were chasing car driven by Wasim, it is also alleged that Aabu, his brothers Jakir and Amjad were present and having weapon in their possession.

Learned A.P.P. invited our attention to the material collected during the investigation as against the applicants in the form of statements recorded of one Nasir Pathan s/o Wahid Khan, who attributed the role to the present applicants that they were chasing car of Wasim and that there was an incident of firing on the car of Wasim. In the resultant, chaos people around the locality started running helter-skelter. One more witness viz. Saif Khan also stated in the same manner that there was an incident of firing when one Mujahid had fired at Wasim Raja and missed the target, before people were panicked and ran helter-skelter, at that time Aabu, Jakir and Amjad were seen in possession of the weapons and thereafter they ran away by means of their two wheelers.

Considering the accusation and the statements collected during the course of investigation and furthermore that the charge-sheet is about to be filed upon completion of the investigation, we relegate the applicants to the remedy available to them under the law that if so advised, they can move an appropriate application for discharge from the case after the charge-sheet is filed.

The application is thus rejected.

**JUDGE**

**JUDGE**

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