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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.560 OF 2014**

Mr. Ashwin Maruti Naik	... Applicant
Vs.	
Mr. Dhiraj Shyamji Gohil and Anr.	... Respondents

Mr. M.K. Kocharekar for the Applicant.
Dr. F.R. Shaikh, APP for the Respondent No.2.

**CORAM : A.S. OKA &
A.A. SAYED, JJ.**

DATE : 1st JULY, 2016

PC.

1 Heard the learned counsel appearing for the Applicant. Charge sheet has been already filed for the offences punishable under Section 323, 387, 504, 506(II) read with Section 34 of the Indian Penal Code, 1860. One of the contentions raised in the present application under Section 482 of the Code of Criminal Procedure, 1973 is that even going by the material forming part of the charge sheet, no offence has been made out. The other submission is legal submission based on the fact that initially a report of non-cognizable case was registered.

2 As the case of the applicant is that no offence is made out even on the basis of the material forming charge sheet, the applicant

can always avail of remedy before the learned Magistrate by applying for discharge. Eventually, if the applicant fails in the said proceeding, while challenging the said order, the applicant can raise other legal contentions which are raised in this application. Accordingly, we decline to entertain this application under Section 482 of the Cr.PC by granting liberty to the applicant to take out appropriate proceedings. It will be open for the applicant to make an application to the concerned Court for expediting hearing of discharge application. If a case is made out for giving out of turn priority, the concerned Court will give necessary priority to the hearing of the application. All contentions on merits are kept open.

(A.A. SAYED, J)

(A.S. OKA, J)