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

Criminal Application (APL) No. 36 of 2016

Gopal Ramesh Rathi and others.
Vs.
The State of Maharashtra through P.S.O., Mangrulpir and others.

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

Mr. S.A. Mohta, counsel for applicant
Ms. Joshi, AGP for respondent no. 1.
Mr. Wakode, counsel for respondent no.2.

CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
DATE : 4th MAY, 2016.

Heard for some time. We find that charge sheet was already filed on 28.1.2016.

As learned counsel for respondent no. 2 was not available, on 12.4.2016 while granting adjournment, we had stayed further proceedings in RCC No. 47/2016.

Effort of advocate Mohta is to demonstrate that the respondent no. 2 has lodged a false and frivolous complaint in retaliation after the complaint filed by applicant no. 1 on 18.11.2015. He further contends that FIR does not show any specific incident and contains vague assertions. Even statement under Section 161 of Cr.P.C. are stereo typed and too general. He, therefore, submits that prosecution of applicants is nothing but an abuse of process of law.

Advocate Wakode, as also learned AGP,

submit that as charge sheet is filed, applicants can appear before trial court and raise proper defences. Advocate Wakode submits that whether there is any material or not is a question which can be looked into by trial court after perusal of entire record.

As charge sheet is already filed, without recording any finding on merits and considering the ages of applicant no. 2 and applicant no.3, we grant them exemption from appearance before trial court till trial court decides preliminary objection or application raising the same to be filed on behalf of the applicants.

Applicants to file appropriate application raising such pleas as may be advised in accordance with law within a period of four weeks from today.

If such application is filed on behalf of the applicants, the trial court shall after giving respondent no. 2 opportunity to meet the allegations therein, consider it and decide it within next four months.

Till then, it would not be necessary for applicant nos. 2 & 3 to remain present before trial court.

With these directions and keeping all rival contentions open, we dispose of the petition. No costs.

JUDGE **JUDGE**

Hirekhan