

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

CRIMINAL APPLICATION (APPW) NO.58/16 IN CRIMINAL WRIT PETITION
NO.100 OF 2016

[Nikhil s/o Rajendra Tayal and another .vs. State of Maharashtra and others]
 (Applicant : Rajesh s/o Navranglal Agrawal)

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

Court's or Judge's orders

Mr. Shyam Dewani, Advocate for the petitioners,
 Mr. T.A. Mirza, A.P.P. for the respondent nos.1 to 3,
 Mr. Atul Pande, Advocate for applicant/intervenor.

CORAM : B.R. GAVAI AND
MRS. SWAPNA JOSHI, JJ.

DATED : APRIL 13, 2016.

The present Criminal Application No. 58/16 is filed by the applicant seeking permission to intervene in the petition.

The application is vehemently opposed by Shri Shyam Dewani, learned Counsel appearing on behalf of the petitioners. Shri Dewani relying on the judgment of Apex Court in the case of **Anju Chaudhary .vs. State of Uttar Pradesh & another reported in (2013) 6 SCC 384** submits that an accused is not entitled to be heard at a stage prior to registration of an F.I.R.

No doubt that Shri Dewani is right in relying on the aforesaid judgment. Their Lordships of the Apex Court held that if prior to filing of an FIR an opportunity is given to the proposed accused, the entire purpose of the investigation would be frustrated. It has been held that if the proposed accused comes to know about the filing of the FIR, the

possibility of the entire evidence being destroyed cannot be ruled out.

However, in the present case, the relief claimed by the petitioners in the Writ Petition is for directing registration of FIR on the ground that the applicant in the present application in collusion with some of the police officers is manoeuvring non-lodging of FIR. What is contended by the petitioners is entirely within the knowledge of the present applicant. In any case, since certain allegations of malafides are made, in our considered view, the presence of the present applicant though may not be necessary, it would assist the Court in properly deciding the present petition. As such, we find that though the applicant may not be a necessary party, he would be a proper party.

As such, the application for intervention is allowed. The applicant is permitted to intervene.

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Since a dispute between the parties is basically a family dispute, the parties agree for referring the dispute to Mediator. The parties also agree on the name of Mr. Dipen Agrawal, the past President of Nag Vidarbha of Commerce, as Mediator.

The parties to appear before the learned Mediator on 15.4.2016 at 10.30 a.m.

Stand over to 29.4.2016.

JUDGE

JUDGE

J.