

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

CRIMINAL APPLICATION (APL) NO. 363 OF 2016

(Shri Amar s/o Madhukarrao Wankhede vs. The State of Maharashtra thr. PSO, PS, Nagpur)

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 &
KUM. INDIRA JAIN, JJ.
DECEMBER 13, 2016.**

Heard Shri Y.V. Nayyar, learned counsel for the applicant, Shri T.A. Mirza, learned APP for non-applicant No. 1 and Shri T.D. Mandlekar, learned counsel for non-applicant No. 2.

2. The learned counsel for the applicant, by placing reliance upon the judgment of the Hon'ble Apex Court in Criminal Appeal No. 13 of 2016 (*Tilak Raj vs. State of Himachal Pradesh*) delivered on 06.01.2016, attempts to demonstrate that ingredients to constitute an act as rape are missing in the matter. He has taken us through various documents for that purpose.

3. The respondents are opposing the arguments.

4. After hearing the respective counsel and perusing the documents, we find that the judgment in the case of *Tilak Raj vs. State of Himachal Pradesh*, (supra) is delivered after the facts were crystallized i.e. after due appreciation of evidence. Here, facts are yet to be crystallized.

5. Hence, without observing anything on merits of the controversy and leaving all rival contentions open for consideration, we dispose of the present proceedings. No costs.

JUDGE

JUDGE