

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

CRIMINAL APPLICATION (APPP) NOS. 1078, 1077 & 1139 OF 2016
IN/AND
CRIMINAL APPLICATION (ABA) NO.502 OF 2016
(Dr. Avinash Manohar Warjurkar & another Vs. The State of Maharashtra)

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

Court's or Judge's orders

Shri Anil Mardikar, Senior Counsel for the applicant.
Shri T. A. Mirza, A.P.P. for the State.
Shri J. M. Gandhi, Advocate for the intervenor in APPP No.1078/2016
Shri S. V. Sirpurkar, Advocate for the intervenor in APPP No.1077/2016.

CORAM : S. B. SHUKRE, J.
DATED : SEPTEMBER 15, 2016

APPP NO. 1078/2016 :

Heard.

For the reasons stated in the application, the application is allowed and leave is granted to the complainant to assist the prosecution.

APPP NO. 1077/2016 :

Heard.

Learned Counsel for the applicant/intervenor, who is a witness in this case and who has complained of receiving some threats from the applicant No.1 in this case states that applicant has interest in this case, which, of course, has been denied vehemently by applicant No.1.

Learned Senior Counsel for the applicant has strong objection in allowing this application. However, learned A.P.P. for the State submits that in case he receives instructions from an additional pleader, there would be increase in the quality of assistance that he is already getting in the matter.

Considering the fact that prayer is only for assisting the prosecution and also the fact that learned A.P.P. for the State has no objection, I am of the view that this application can be granted.

The application is allowed accordingly.

APPP NO. 1139/2016 :

Heard learned Counsel for the applicant/intervenor, learned Senior Counsel for the original applicant and the learned A.P.P. for the State.

The applicant has been filed by invoking inherent powers of this Court as well as the power of this Court under Section 327(2) read with Section 327 (3) of the Code of Criminal Procedure. The complainant states that there are several circumstances which she needs to inform this Court and she thinks that this would be possible only if she is given an audition in the confines of the chamber where there is some sort of privacy.

Learned Counsel for the complainant submits that for effectively deciding the application and doing justice, the application be allowed.

According to the learned Senior Counsel, this matter has been partly heard in the open Court and nothing has remained to be heard in the so-called privacy. He also submits that in any case Section 327 would not be applicable to a proceeding relating to the bail application.

Learned A.P.P. for the State leaves the matter to the discretion of this Court.

All said and done, one fact which is required to be prominently noted is that permission has already been granted to the complainant to assist the prosecution and, therefore, this is not a case where the voice of the complainant would not be made audible to this Court. Whatever she has to say in this case, can always be said by her through the learned A.P.P. If the learned A.P.P. is of the opinion that even the complainant is required to be heard and that too in the atmosphere of confidentiality and privacy, the request can at that time be appropriately considered. Right now, there is no occasion for this Court to grant the request as made by this applicant. Then, the complainant/applicant can also inform the Investigating Officer of the various circumstances which she feels are

relevant from the view point of making the prosecution case even more stronger. Thus, no prejudice would be caused if this application is not allowed.

In the circumstances, the application stands rejected.

ABA NO.502/2016 :

Heard.

During the course of hearing of this matter, learned Senior Counsel for the applicant invited my attention to some documents, copy of which have also been sought by the learned Counsel for the complainant. He also submitted that all these documents were shown to the Investigating Officer. But, the Investigating Officer, who is personally present in the Court, says that copies of these documents have not been tendered to him.

Learned Senior Counsel for the applicant submits that though the documents were shown, they were not sought, and had they been sought by the Investigating Officer, the applicant would have furnished a copy of these documents. Now, the Investigating Officer informs the Court that he would also consider these documents, if they are given to him. Learned Senior Counsel, on behalf of the applicant, states that the applicant No.1 would personally go to the Police Station, Bhandara tomorrow at 10.00 a.m. and tender these documents, which is acceptable to the Investigating Officer.

Accordingly, it is directed that the applicant No.1 shall attend the police station tomorrow, on 16/9/2016 at 10.00 a.m. and handover these documents to the Investigating Officer, who shall consider them appropriately.

The prosecution shall file an additional reply, if required in the matter.

Stand over to **23/9/2016.**

wwf

JUDGE

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

Uploaded by : W. W. Lichade

Uploaded on : 19/9/2016