

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1167 OF 2016

Shri Suresh Anandrao Jagtap & Ors. ... **Applicants**

V/s.

Shri Balasaheb Sampat Nigde & Anr. ... **Respondents**

Mr. Rahul Kulkarni for the Applicant.

Mr. Anil Shitole for Respondent No.1.

Mr. A. A. Phalkar, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 25th SEPTEMBER, 2017

P.C.:

. By present application under Section 482 of Cr. P.C., the Applicants have questioned the correctness of order dated 09.09.2016 passed by the Judicial Magistrate First Class, Saswad below Exh. 1 in R.C.C.No. 76 of 2013 thereby directing to frame charge against the Applicant under Section 240 of Cr.PC.

2 Learned Counsel for the Applicants submitted that before passing the impugned order the learned Judicial Magistrate First Class, Saswad did not record evidence before framing of charge and therefore, the impugned order is bad-in-law.

3 Learned Counsel for the Respondent No.1/original complainant submitted that as a matter of fact, before passing the impugned order and before proceeding to frame charge, the learned Trial Court has recorded evidence before

charge of the first informant and after being satisfied with the material on record that prima facie case exists, the Trial Court has proceeded to frame charge in the matter. He submitted that further as a matter of fact, after framing of charge, the original Accused No.2 Manikrao Choramale filed an application under Section 306 of Cr.P.C. praying for tender of pardon with a view to disclose the true and correct facts before the Trial Court, which has been allowed by an Order dated 18.02.2017 and as of today, the trial has proceeded further. The learned Counsel has tendered on record the application of Accused No.2 Manikrao Choramale and the Order dated 18.02.2017 passed thereon by the learned Magistrate.

4 In view of the submission made by the learned Counsel for the Respondent No.1, according to me, the present application as of today has become infructuous and is accordingly, dismissed.

(A.S.GADKARI, J.)