

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRI. APPLICATION (APPP) NO.1942/2017 IN CRI.APPLICATION (APL) NO.510/2017 (D)
(ARCHANA KISHOR CHAUDHARY VERSUS STATE OF MAHARASHTRA & ANOTHER)

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

Court's or Judge's orders

Shri S.P. Dharmadhikari, Senior Counsel with Shri C.S. Dharmadhikari, counsel
 for the applicant-Shri C.K. Bawankule.
 Shri A.M. Joshi, A.P.P. for the NA-1.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.

DATE : APRIL 20, 2018.

Heard.

We do not find that any other observation in our order could adversely affect the Hon'ble Guardian Minister except the following two sentences in paragraph 11 of the judgment dated 18.09.2017.

“We are clearly of the view that since action was sought by the gram panchayat of which the applicant is the Sarpanch against Madhukar Gondane for removal of encroachment and since the husband of the applicant had made more than half a dozen complaints to the Hon'ble Chief Minister against the Guardian Minister with serious allegations, the Guardian Minister and Madhukar Gondane have been instrumental in initiating criminal action against the applicant. The FIR is politically motivated and the entire action is based on the diktats of the guardian minister on the written complaint of Madhukar Gondane, dated 8-8-2016.”

It is worthwhile to note that the Hon'ble Guardian Minister has not denied in this application that he had not made the remarks/issued directions on the written complaint of Madhukar Gondane dated 08.08.2016. There was no denial in this regard even by the other respondents when we had heard Criminal Application (APL) No.510 of 2017. Though the matter appeared to be a simple application for quashing of the first information report against the original applicant, the eyes and ears of the entire police personnel in the concerned police station were on the fate of the same and all of them were present in the Courtroom.

In fact, we had begun paragraph 11 of the judgment by expressing surprise in the matter that when several important matters that were conducted in this Court in relation to larger scams and other criminal cases, the Additional Public Prosecutors do not provide assistance and the Investigating Officers are normally absent in the Court but on the last date of hearing, i.e. on 14.09.2017 almost every police personnel from Police Station Khaparkheda was present in the Court just besides the Additional Public Prosecutors that were defending the application. We had found that on more than a couple of dates of hearing, a large police force was present in the Court when the matter was heard. On our query, we were informed by the Additional Public Prosecutor that the Senior Police Inspector who controls Police Station Khaparkheda was present. The Investigating Officer who had conducted the investigation was also present and so were the other police constables in the said police station for watching the proceedings in this criminal application. We had made certain more observations in paragraph 11 which would show how important the case was for some of the persons concerned.

In any case, since according to the Hon'ble Guardian Minister, the aforesaid observations in paragraph 11 that adversely affect him are passed without hearing him and since all the other reasons recorded in our judgment would clearly support the quashing of the first information report registered against the applicant in the said case, we expunge the remarks/observations referred to at the outset.

The criminal application is allowed accordingly.

JUDGE

JUDGE

APTE