

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

CRIMINAL APPLICATION (APL) NO. 268/2019

Shri Mallikaarjun Basant Patil

..VS..

State of Maharashtra

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

Court's or Judge's Order

Shri B. B. Sone & Ms. P.S. Kosare, Advocates for the applicant
Shri S. S. Doifode, APP for the non-applicant/State

CORAM : Z. A. HAQ & M. G. GIRATKAR, JJ.

DATED : 14/11/2019

Heard.

By this application under Section 482 of the Code of Criminal Procedure, the applicant has prayed that the First Information Report registered with the non-applicant – Police Station for the offence punishable under Section 304-II, be quashed.

According to the applicant, he is Director of Company named “M. B. Patil Company”, and the applicant is operating entire business from Pune. The Public Works Department of Maharashtra has granted contract for construction of road from Deori to Gondia, and according to the Investigating Agency, due care and precautions were not undertaken while carrying out the work which resulted in an accident, in which Munnalal Agnihotri lost his life. Referring to the reply filed by the non-applicant, learned Advocate for the applicant submitted that even according to the Investigating Agency, Munnalal Agnihotri

died in an accident, which occurred because of extremely bad condition of road and relying on the judgment given by the Division Bench of this Court at Bombay in Writ Petition No. 3264/2017 on 21.11.2017, it is argued that in such facts prosecution for offence punishable under Section 304-II cannot go on as the ingredients necessary to constitute the offence are not made out.

The charge-sheet is not yet filed. Though learned Advocate for the applicant tried to argue that the material on the basis of which First Information Report is registered against the applicant is not sufficient to undertake investigation against the applicant, in our view, the submission is pre-mature and cannot be accepted at this stage. For this, we find support from the judgment given by the Hon'ble Supreme Court in the case of *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and ors. vs. The State Of Gujarat* reported in *(2017) 9 SCC 641*.

In our view, this is not a case fit to exercise jurisdiction under Section 482 of the Code of Criminal Procedure.

Hence, the Criminal Application is **dismissed**.

JUDGE

JUDGE