

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

CRIMINAL APPLICATION (APPW) NO.237/2018

IN

CRIMINAL WRIT PETITION NO.771/2018 (D)

Rajkumar S/o Tolaram Sawlani

..Vs..

Satish S/o Rameshlal Premchandani and others

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

Court's or Judge's orders

Shri R.P. Joshi, Advocate for the petitioners.
Shri V.P. Maldhure, A.P.P. for respondent No.1.
Shri S.G. Karmarkar, Advocate for respondent No.2.

CORAM : Z.A. HAQ, J.

DATE : 25.2.2019.

The present non-applicant Nos.1 to 7 had
filed Criminal Writ Petition No.771/2018 with the
following prayers:

“(i) Quash and set aside the
impugned order dated 25.07.2018 passed
by Ad hoc District Judge-1 and Additional
Sessions Judge, Nagpur in Criminal Revision
Application No.23/2018 (Annexure-V).

(i)(a) Quash and set aside impugned
order dated 30.06.2017 passed by the
learned J.M.F.C. Court No.7, Nagpur in
Misc. Criminal Application No.2273/2017
(Annexure IV).

(ii) Quash the FIR in Crime
No.629/2017 dated 6.7.2017 registered
with Jaripatka Police Station, Nagpur for
the alleged offences punishable under
Section 406, 420, 120-B r/w Section 34 of
IPC and Section 3, 4 and 7 of the Dowry
Prohibition Act, 1965 and the criminal
proceedings arising therefrom.

(iii) *During the pendency of the instant petition stay further investigation in the above said Crime No.629/2017 arising out of FIR dated 06.07.2017 registered with Jaripatka Police Station, Nagpur.*

(iv) *During the pendency of the instant petition, restrain the police from arresting the petitioners and / or taking any coercive steps against the petitioners.*

(v) *During the pendency of the instant petition stay the proceedings in Criminal Misc. Application No.15872/2018, State of Maharashtra Vs. Satish Rameshlal Premchandani and others pending before 18-21 C.J.M. and JMFC, Nagpur.*

(vi) *Quash and set aside criminal proceedings in Criminal Misc. Application No.15872/2018 State of Maharashtra Vs. Satish Rameshlal Premchandani and others pending before 18-21 C.J.M. and JMFC, Nagpur.*

(vii) *Pass any order or grant any other relief that may be found just, proper and expedient in the facts and circumstances of the case.”*

This writ petition is decided by the judgment dated 25th September, 2018. Now the present applicant who was respondent No.2 in the writ petition prays that the judgment passed in Criminal Writ Petition No.771/2018 on 25th September, 2018 be recalled as the writ petition was required to be heard and disposed by Division Bench of this Court and Single Judge could not have heard and disposed the criminal writ petition. The present applicant relies on Rule 2(h) of Chapter I of the

Bombay High Court Appellate Side Rules, 1960 (for short “the Rules of 1960”). Learned Advocate for the applicant has argued that as per Rule 2(h)(ii) of the Rules of 1960, applications under Section 482 of the Code of Criminal Procedure simpliciter or read with Article 226 and / or Article 227 of the Constitution of India praying for quashing the investigation under Section 156(3) of the Code of Criminal Procedure are required to be placed before the Division Bench. There is no dispute in this regard. However, in the present case, the original petitioners (present non-applicant Nos.1 to 7) had challenged the judgment passed by the learned Additional Sessions Judge in Criminal Revision No.23/2018 and also the order passed by the learned Magistrate in Miscellaneous Criminal Application No.2273/2017 on 30th June, 2017 and as per Rule 18(4) of Chapter XVII of the Rules of 1960, the writ petition was rightly placed before the Single Judge of this Court and is rightly decided by the Single Judge. The present applicant was represented by his Advocate when writ petition came to be decided. There is no explanation as to why this submission was not made when the criminal writ petition was taken up for hearing.

In the above facts, I see no reason to recall the judgment delivered in Writ Petition No.771/2018 on 25th September, 2018. The criminal application is **dismissed**.

JUDGE