

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

CRIMINAL WRIT PETITION NO. 1038 OF 2018

Anup Ramesh Bhatiya and another
 Vs.

The Business Head, Mr. Sonal Khurana, S.N.D.L., Nagpur and others

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

Court's or Judge's orders

 Mr. Y.B. Sharma, Advocate for the petitioners.
 Mrs. S.S. Jachak, A.P.P. for respondent No. 4/State.

CORAM : Z.A. HAQ AND
PUSHPA V. GANEDIWALA, JJ.

DATED : 25th SEPTEMBER, 2019

Earlier Criminal Application (APL) No. 382/2013 was filed by Ajay Bhagwaticharan Bhatiya praying that First Information Report No. 3653/2013 be quashed. Criminal Application (APL) No. 382/2013 was disposed by the Division Bench of this Court by order dated 10/10/2018, which is as follows:

“Heard learned counsel for the parties.

2. Learned counsel for respondent Nos. 1 to 3 has pointed out that F.I.R. No. 3653 of 2013 is lodged by Vipinchandra Paryag Joshi, Assistant Manager, Flying Squad of respondent No. 3 against Anup Bhatiya on 12/04/2013 while present application for quashing of said F.I.R. is filed by Ajay Bhagwaticharan Bhatiya and thus is not tenable. Learned counsel for the applicant has not disputed the said aspect.

3. *In that view of the matter, we find no locus to the applicant to challenge the F.I.R. or to pray for its quashing when admittedly he is not accused in the said crime. In the circumstances, learned counsel for the applicant seeks leave to withdraw the present application with liberty in favour of Anup Bhatiya to take steps as available under law for quashing of F.I.R.*

4. *In the circumstances, leave as prayed for is allowed. The application is dismissed as allowed to be withdrawn with liberty in favour of Anup Bhatiya to take appropriate steps as available under law.*

5. *In view of dismissal of application, Criminal Application (APPP) No. 1669 of 2018 stands disposed of as dismissed.”*

Now, this criminal writ petition is filed by Anup Ramesh Bhatiya as petitioner No. 1 and Ajay Bhagwaticharan Bhatiya as petitioner No. 2 praying that the First Information Report registered as Crime No. 3653/2013 be quashed. While disposing Criminal Application (APL) No. 382/2013, this Court recorded that the prayer for quashing of First Information Report No. 3653/2013 at the behest of Ajay Bhagwaticharan Bhatiya, was not tenable. By the order dated 10/10/2018, this Court granted liberty to Anup Ramesh Bhatiya to take steps as per law to seek quashing of the First Information Report.

We find that this petition is mischievously filed showing Ajay Bhagwaticharan Bhatiya as petitioner No. 2.

In view of the order passed by this Court on 10/10/2018 recording that prayer for quashing of First

Information Report No. 3653/2013 at the behest of Ajay Bhagwaticharan Bhatiya was not maintainable, this petition could not have been filed by Ajay Bhagwaticharan Bhatiya seeking quashing of First Information Report No. 3653/2013.

We find that a misleading statement is made in paragraph 19 of the petition that petitioner No. 2 - Ajay Bhagwaticharan Bhatiya had approached this Court vide Criminal Application (APL) No. 382/2013 wherein liberty has been granted vide order dated 10/10/2018 and hence as per the liberty, the petitioner No. 1 is again approaching this Court.

As we find that there is an attempt to mislead the Court, we are not inclined to entertain this petition. Hence, the writ petition is **dismissed** with costs quantified at Rs. 20,000/- to be paid by petitioner No. 2 - Ajay Bhagwaticharan Bhatiya.

The amount of costs shall be deposited by Demand Draft with the registry of this Court, till 07/10/2019.

On deposit of the amount of costs, it be given to the Office of Public Prosecutor, Nagpur.

Though we have dismissed this petition, for the reasons recorded above, as by order dated 10/10/2018, liberty was granted to Anup Ramesh Bhatiya (petitioner No. 1) to take steps as per law to seek quashing of First Information Report No. 3653/2013, we grant liberty to Anup Bhagwaticharan Bhatiya, accordingly.

JUDGE

JUDGE