

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

CRIMINAL APPLICATION (APL) NO. 388 OF 2013

Mr. Farid S/o Illias Chini,
Aged about 26 years,
Occupation – Business,
C/o. Manapure Road,
Malgujaripura, Wardha.

...

APPLICANT

...V E R S U S...

1. State of Maharashtra

Through its Police Station Officer,
Police Station Ajani, Nagpur.

2. Ku. Payal D/o. Diwakar Narayane,
Aged 23 years, Occupation – Student,
R/o. Plot No.36, Bhagwan Nagar Road,
Rameshwari Square, Nagpur,
P. S. Ajani.

...

NON-APPLICANTS

Shri R. R. Vyas, Advocate for Applicant.

Shri S. J. Kadu, A.P.P. for Non-applicant No.1.

Shri H. N. Bhondge, Advocate for Non-applicant No.2.

**CORAM:- Z. A. HAQ AND
AMIT B. BORKAR, JJ.**

DATED :- 12.10.2020

ORAL JUDGMENT (PER: Z. A. HAQ, J.) :-

1. Heard Shri R. R. Vyas, learned Advocate for the applicant, Shri S. J. Kadu, learned A.P.P. for non-applicant No.1/State and Shri H. N. Bhondge, learned Advocate for non-applicant No.2-Informant.

2. The non-applicant No.2 – Informant had filed an application under Section 156(3) of Code of Criminal Procedure before the learned Magistrate in which impugned order came to be passed directing the investigating agency to investigate the matter and take further steps as per law.

3. Various submissions are made by learned Advocate for the applicant on facts. Main attack of the learned Advocate for the applicant is that the impugned order is illegal and unsustainable in law inasmuch as the learned Magistrate has not at all applied his mind to the controversy and has not recorded any reason for directing investigation against the applicant. To support the submissions that the impugned order is illegal and unsustainable in law as it does not show application of mind, learned Advocate for the applicant relied on the judgment given by the Hon'ble Supreme Court in the case of ***Priyanka Srivastava and Anr. Vs. State of Uttar Pradesh & ors.*** reported in ***(2015) 6 SCC 287*** and the Judgment given by this Court in the case of ***Sayed Anwar Ahmed & Anr. Vs. The State of Maharashtra & Anr.*** reported in ***2017 All MR (Cri.) 4457***.

4. We find substance in the submissions made by learned Advocate for the applicant. Neither learned A.P.P. nor learned Advocate for the non-applicant No.2 – Informant has been able to

counter the legal submissions made by learned Advocate for the applicant as above. Hence, the following order.

ORDER

i] The impugned order passed by the learned Magistrate is set aside.

ii] The consequential First Information Report No.M-6/2013 registered by the non-applicant No.1 – Police Station against the applicant for the offences punishable under Sections 326-B, 354-A (1), (2), (3), 354-B, 354-D, 386, 376 of the Indian Penal Code read with Section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 154, 160, 161 of Protection of Civil Rights Act, 1955 is quashed.

iii] Regular Criminal Complaint Case No.1507 of 2013 is restored on the file of the Chief Judicial Magistrate, Nagpur and the matter is remitted for further consideration.

iv] Learned Chief Judicial Magistrate, Nagpur shall examine the matter keeping in view the law laid down by the above referred judgments.

v] The non-applicant No.2 and the non-applicant No.1 shall appear before the learned Chief Judicial Magistrate, Nagpur on 23.11.2020 at 11.00 a.m.

5. Rule is made absolute in the above terms.

JUDGE

JUDGE

RGurnule.