

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO. 608 OF 2014

1. ~~Sonu S/o. Mukeshsing Sengar,~~ (Disposed as withdrawn)
2. Shishu @ Vivek S/o. Mukeshsing Sengar,
Aged about 23 years, Occ. : Agriculturist,
3. ~~Mukeshsing S/o. Govindsing Sengar,~~ (Disposed as withdrawn)
4. Lata W/o. Mukeshsing Sengar,
Aged about 45 years, Occ. : Household,

All R/o. At Indora, Tah. : Mouda,
Dist. : Nagpur.

.... **APPLICANTS.**

// **VERSUS** //

1. STATE OF MAHARASHTRA
Through Police Station Officer,
P.S.O. Aroli, Tah. - Mouda,
Dist.- Nagpur.
2. STATE OF MAHARASHTRA
Through Sub-Divisional Police Officer,
Ramtek, Tah. - Ramtek,
Dist.- Nagpur.
3. Anup S/o. Ramesh Rode,
Aged about 25 Yrs., Occ. Not known,
R/o. At – At Indora, Tah.- Mouda,
Dist. - Nagpur.

.... **NON-APPLICANTS.**

Shri A.G.Hunge, Adv.h/f. Shri O.K.Masurke, Advocate for Applicant Nos.2 & 4
Ms Mayuri Deshmukh, A.P.P. for Non-applicant Nos.1 & 2.
None for Non-applicant No.3.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.
DATED : DECEMBER 18, 2020.

ORAL JUDGMENT : (Per : Z.A.Haq, J.)

1. None appeared for the non-applicant No.3-informant in the morning session, the matter was kept back. In the afternoon session when the matter was called out, again none for the non-applicant No.3-informant.

Heard learned Advocate for the applicant Nos.2 and 4 and the learned A.PP for the Non-applicant Nos. 1 and 2.

2. By this application, the applicants have prayed that F.I.R. No.48 of 2014, registered with the Non-applicant No.1-Police Station against the applicants for the offences punishable under Sections 324, 294, 506 and 34 of the Indian Penal Code read with Section 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 be quashed. Initially, this Criminal Application was filed by four applicants (all accused). However, at the time of hearing on 23rd September 2014, the applicant Nos. 1 and 3 sought permission to withdraw the application, which was granted. This Court entertained the Criminal Application of applicant No.2-Shishu @ Vivek Mukeshsing Sengar and applicant No.4-Lata W/o. Mukeshsing Sengar and directed issuance of notices to the non-applicants and also granted

interim order directing that any coercive steps shall not be taken against the applicant Nos. 2 and 4. On 21st November 2014 Rule came to be issued.

3. The learned Advocate for the applicant Nos. 2 and 4 has taken us through the report lodged by the non-applicant No.3 and has argued that the ingredients necessary to constitute the offences alleged against the applicants are not fulfilled and therefore, names of applicant Nos. 2 and 4 are not found in the F.I.R. and there are no accusations against the applicant Nos. 2 and 4 on the basis of which the F.I.R. for the offence alleged against the applicants could have been registered. The learned Advocate for the applicant Nos. 2 and 4 further pointed out that the applicant/accused No.1-Sonu Mukesh Singh Sengar and applicant/accused No.3-Mukeshsing Govindsing Sengar were tried in Special Criminal Case No.31 of 2015 which came to be registered on filing of the charge-sheet against the applicant/accused Nos. 1 and 3 pursuant to the same F.I.R., and by judgment dated 10th May 2016, the applicant Nos. 1 and 3 are acquitted of the charge framed against them. It is argued that allegations in the report lodged by the complainant were against the accused No.1-Sonu Mukeshsing Sengar and accused No.3-Mukeshsing Govindsing Sengar and even they are acquitted, hence, continuation of the criminal proceedings against the applicant Nos. 2 and 4 will be nothing but abuse of process of the Court.

4. The learned A.P.P., though opposed the prayer made on behalf of the applicant Nos. 2 and 4, could not convince us by countering the arguments made on behalf of the applicant Nos. 2 and 4.

5. We find substance in the submissions made by the learned Advocate for the applicant Nos. 2 and 4. Hence, we pass the following order:

F.I.R. No.48 of 2014 registered against applicant No.2-Shishu @ Vivek Mukeshsing Sengar and applicant No.4-Lata W/o. Govindsing Sengar with Non-applicant No.1-Police Station is quashed.

Rule is made absolute accordingly.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)

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