

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

CRIMINAL WRIT PETITION NO. 183 OF 2021

Naresh Chaitram Chowkse

Vs.

The State of Maharashtra and others

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

Court's or Judge's Order

Shri R.S.Nayak, Advocate for petitioner.

Shri S.M.Ghodeswar, APP for respondent no.1 and 2

**CORAM :- SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.**

DATED :- 05.03.2021

We have repeatedly asked the learned counsel for the petitioner as to why the petitioner has not availed of the remedy available commonly to every person in the same situation as of the petitioner, which remedy is of seeking discharge in the matter in which charge-sheet has been filed, the learned counsel for the petitioner says that the whole exercise carried out by the police is nothing but an abuse of process of law. The learned counsel for the petitioner has not given any answer to the query regarding availability of remedy in the nature of seeking of discharge from the trial Court.

We are of the view that in a case like the present one, the discharge remedy would be ordinarily available to the petitioner, unless the charge has been framed.

For the reasons stated above, we are not inclined to entertain the petition and the petition is disposed of accordingly with

a liberty to resort to such remedy as may be available in law.

As regards the other relief of issuing a direction of departmental action, unless the facts necessary for recording a finding that there was any malafide action in this case on the part of the Investigating Officer, no such relief can be granted. In the present case, it is not yet established as to whether or not the petitioner is innocent and that for some extraneous consideration he has been dragged into this controversy with a malafide intention to harass him and to coerce him into agreeing to something which the Investigating Officer wishes him to agree. Therefore, unless all these facts are established on record, no relief of directing the departmental action can be granted by this Court. Even for seeking such a relief, the remedy of availing of filing a civil suit is always available to the petitioner.

The petition stands disposed of accordingly.

JUDGE

JUDGE

Rvjalit

**Rajesh
Jalit**

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Rajesh Jalit
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