

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

CRIMINAL APPLICATION (APL) NO.270/2016

Shantaram s/o Amrutrao Gopnarayan,
aged about 44 years, Occ. Service,
r/o Jatharpeth, Kela Plots,
Tq. Dist. Akola.

....APPLICANT

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

1. State of Maharashtra through
PSO P.S. Balapur, Dist. Akola.
2. Sneha Baburao Bharate,
aged about 25 years, Occ. Service,
r/o c/o Urad, Police Station, Balapur. **...NON APPLICANTS**

Mr. S. V. Sirpurkar, Advocate for applicant.
Mr. M. J. Khan, A.P.P. for non applicant no.1-State.
Mr. A. Subhan, Advocate for non applicant no. 2

CORAM:- V. M. DESHPANDE AND

ANIL S. KILOR, JJ.

DATE:- JANUARY 7, 2021

ORAL JUDGMENT (Per: V. M. Deshpande, J.)

1. Heard Mr. Sirpuarkar, learned counsel for applicant,
Mr. Khan, learned A.P.P. for non applicant no.1-State and Mr.
Subhan, learned counsel for non applicant no.2.

2. Initially, present application under Section 482 of the
Code of Criminal Procedure was filed by the applicant, who is
Police Constable to challenge the FIR bearing Crime No. 86/2016

under Section 354-A of the Indian Penal Code and Section 3 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This proceeding under Section 482 of the Code of Criminal Procedure was filed before this Court on 11.04.2016. Notices were issued on 05.08.2016. However, no interim relief was granted in favour of the applicant. During the pendency of this application, the investigating officer completed the investigation and filed charge-sheet vide Charge-Sheet No.80/6016 on 27.05.2016. After the said event, the applicant filed an application for amendment in this proceeding praying for challenging of the charge-sheet. The application was allowed on 21.12.2016 and accordingly the applicant amended application and challenged the said charge-sheet. On 17.04.2018, the application to challenge the charge-sheet was admitted. While admitting, stay was also granted in favour of the applicant in respect of the progress of Regular Criminal Case No. 215/.2016.

3. This application was listed for final hearing from time to time. On 17.12.2010, after hearing in detail the submissions of learned counsel for applicant and complainant, this Court formulated the following point:

“In absence of constitution of inquiry committee contemplated under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, or defect in constitution of such inquiry committee, whether complaint lodged independently by the victim or through committee not properly constituted, would liable to be quashed.”

4. In the order dated 17.12.2020 at the request of the learned counsel for the applicant, the matter was adjourned. This matter was thereafter taken on 04.01.2021 and 06.01.2021 for hearing. Since, hearing could not be completed, it was kept for today. During the hearing of this application, it was noticed by Mr. Sirpurkar, learned counsel for applicant, that the applicant has not challenged constitution of the Committee as contemplated under the Act and non adherence to the principles of natural justice by the inquiry committee. He submits that in the present case, he does not wish to challenge the said aspects inasmuch as other legal course is available to him. He, therefore, submits that he has instructions from applicant not to press this application and to withdraw the same.

5. Since the applicant wishes to withdraw the present application, the applicant is permitted to withdraw this application with liberty to the applicant to take steps as available to him and as advised to him. Needless to mention that interim order dated 17.04.2018 stands vacated. It is made clear that all the points on merit to challenge and charge-sheet are kept open.

The application is disposed of.

JUDGE

JUDGE

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