

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

Criminal Application (APL) No. 917 of 2021

- (1) Siddharth S/o. Chandraprakash Mehra
Aged about 44 yrs, Occ. Business,
- (2) Kapil S/o. Ashok Mehra,
Aged about 43 yrs, Occ. Business,
- (3) Ashok S/o. Late Tilakraj Mehra,
Aged about 70 yrs, Occ. Business,
- (4) Chandraprakash S/o Late Indrajit Mehra,
Aged about 56 yrs, Occ. Business,
- (5) Gautam S/o. Chandraprakash Mehra,
Aged about 42 yrs, Occ. Business,

Nos. 1 to 5 R/o P-22, C.I.T. Road,
Scheme 55, Kolkata – (West Bengal)
- (6) Tapan S/o. Late Gopalchandra Paul,
Aged about 49 yrs, Occ. Business,
R/o 219, Peyarapur (Anshik), P.S.
Serampore Hooghli (West Bengal)

... Applicants

... Versus ...

- (1) Dayal Cotspin Limited,
Through its Director Pawan Jagdish
Bachuka, aged 46 yrs Occ. Business
R/o. Dayal House, Radha Kisan Plots
Akola, Tq. and Dist. Akola
- (2) State of Maharashtra
Through P.S.O. City
Kotwali, Akola.

... Non-Applicants

Mr. H. M. Mohta, Advocate for the applicant
Mr. S. V. Sirpurkar, Advocate for non-applicant 1
Mr. N. S. Rao, APP for the State/non-applicant 2

CORAM : ROHIT B. DEO, J.
DATED : 20-12-2021

ORAL ORDER

Admit.

2. Heard finally with consent of learned counsel appearing for the parties.

3. The applicants are proposed accused in application preferred by non-applicant 1 under Section 156(3) of the Code of Criminal Procedure, 1973 (Code).

4. The learned Magistrate dismissed the application and refused to direct the police to investigate.

5. Aggrieved, the non-applicant 1 preferred Criminal Revision 142/2015 before the Sessions Court, Akola. The applicants were not impleaded. An application came to be preferred by the applicants seeking impleadment which is dismissed by the order impugned. The learned counsel for non-applicant 1 fairly does not dispute that the order impugned is vulnerable.

6. The applicants as proposed accused did not have right of hearing at the stage of consideration of the application under Section

156(3) of the Code. However, after the learned Magistrate dismissed the said application and revision came to be preferred, the applicants certainly were entitled to be heard at the revisional stage. Support can be drawn from the decision of the Apex Court in the case of ***Manharibhai Muljibhai Kakadia and Anr. Vs. Shaileshbhai Mohanbhai Patel & Ors. [2012 (4) Crimes 240 (SC)]*** and in particular the observations in paragraphs 54 and 58 therein.

7. The order impugned is set aside.

8. The application, Exhibit 6 filed before the Sessions Court, Akola for impleadment of parties is allowed.

9. The revisional Court is requested to decide the revision as expeditiously as possible after hearing every stakeholder including the present applicants.

10. The application is disposed of in aforesaid terms.

JUDGE

wasnik