

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

CRIMINAL APPLICATION (APL) NO.400 OF 2017

Manohar s/o. Bajirao Meshram,
Aged about : 44 years, Occ.: Private,
R/o. Vaijeshwar Ward,
Paoni, Dist. Bhandara.

. . . **APPLICANT**

...VERSUS..

1. State of Maharashtra, through
its Principal Secretary, Home
Department, Mantralaya,
Mumbai – 32.
2. Sub-Divisional Police Officer,
Paoni, Dist. Bhandara.
3. Police Station Officer, Police
Station, Paoni, Dist. Bhandara.
4. Ahok Munde,
Aged 44 years, Food Inspector,
Tahsil Karyalaya, Pauni,
R/o. Pauni, Tah. Pauni, Distt.
Bhandara.
5. Narendra Rachelwar,
Aged about 58 years, Tahsildar
Pauni, Tah. Pauni, Dist. Bhandara.

. . . **NON-APPLICANTS**

Shri C.U. Deopujari, Advocate for applicant.
Shri T.A.Mirza, Additional Public Prosecutor for the Non-
applicant/State.

CORAM: Z.A. HAQ & AMIT B. BORKAR, JJ.
DATED : 22/01/2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. Heard.
2. Rule. Rule is made returnable forthwith.
3. This is an application filed under Section 482 of the Code of Criminal Procedure challenging acceptance of “B” Summary report submitted by the Investigating Agency under Section 173 of the Code of Criminal Procedure. The applicant, who is informant had lodged complaint with the non-applicant no.3 Police Station for registration of offences punishable under Sections 294 and 506 of the Indian Penal Code read with Section 3 (i)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The investigating Agency carried out the investigation in respect of the offences alleged by the applicant in his complaint and submitted “B” summary report to the Trial Court. The applicant raised objection to the acceptance of “B” summary report before the Trial Court. By the impugned order dated 19.12.2016, the Trial Court accepted “B” Summary report submitted by the non-applicant no.3 without hearing the applicant.
4. Without going into other merits of the matter, we are disposing of the present application, in view of the judgment

of the Apex Court in the case of ***Bhagwant Singh Vs. Commissioner of Police and another*** reported in ***AIR 1985 SC 1285***, wherein the Apex Court has taken a view that in a case where the Magistrate to whom a report is forwarded under sub-section (2) of Section 173 of the Code of Criminal Procedure decides to take a view that there is no sufficient ground for proceeding against some of the persons mentioned in the First Information Report, the Magistrate must give notice to the informant and provide him an opportunity to be heard at the time of consideration of the report.

5. In the facts of the present case, it appears that the applicant had appeared before the learned Trial Court and filed his objection to the acceptance of “B” summary report. Copy of the objection raised by the applicant is annexed at Page 94 of the application. The applicant has specifically raised a ground that no opportunity of hearing was given to the applicant before accepting “B” summary report. The reply filed by the non-applicant no.1 does not dispute the ground raised by the applicant that no opportunity of hearing was given to the applicant before accepting “B” summary report. Therefore, in view of the judgment of the Apex Court in the case of ***Bhagwan Singh*** (supra), we are satisfied

that the impugned order dated 19.12.2016 accepting “B” summary report in relation to the First Information Report no.3064 of 2015 registered with the non-applicant no.3 - Police Station deserves to be quashed and set side. We, therefore, pass the following order:

ORDER

(i) The impugned order dated 19.12.2016 passed by the Special Judge, Bhandara granting “B” summary report submitted by the non-applicant no.3 is quashed and set aside.

(ii) The Special Judge, Bhandara shall hear the applicant and shall pass fresh orders on “B” summary report in accordance with law.

Rule is made absolute in the aforesaid terms.

JUDGE

JUDGE

Ambulkar