

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

CRIMINAL REVISION APPLICATION NO.129 OF 2019

Prakash Shivram Natkar,
Aged about 49 years,
Occ: Service,
R/o Mahavir Nagar, Darwa Road,
Yavatmal, Tq. & District Yavatmal. **APPLICANT**

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

The State of Maharashtra,
through P.S.O. P.S. Wadgaon Road,
Yavatmal, Tq. & District Yavatmal. **RESPONDENT**

Mr. Anil Mardikar, Senior Advocate with Mr. Ved R.
Deshpande, Advocate for Applicant.
Mrs. Kalyani R. Deshpande, APP for Respondent/State.

CORAM: **ROHIT B. DEO, J.**
DATE: **17th DECEMBER, 2021.**

ORAL JUDGMENT:

The applicant is assailing the order dated 06.06.2019 rendered by the learned Special Judge, Yavatmal whereby application Exh.6 preferred by the applicant seeking discharge is rejected.

2. One of the submissions canvassed before this Court is that a departmental inquiry was conducted on the basis of the

same set of allegations as are levelled in the charge-sheet and the applicant is exonerated and there is categorical observation that none of the allegations stand proved. The learned Senior Advocate Mr. Anil Mardikar would invite my attention to the relatively recent decision of the Hon'ble Supreme Court in ***Ashoo Surendranath Tewari v. Deputy Superintendent of Police, Eow, CBI and another, (2020) 9 SCC 636.***

3. The learned APP Mrs. Deshpande, however, points out, that the ground which is now raised, was not raised before the learned Special Judge.

4. In my considered view, it would be appropriate to grant liberty to the applicant to prefer a fresh application raising the ground that the applicant is exonerated in departmental inquiry and the allegations are identical.

5. If such an application is preferred within the next two weeks, the learned Special Judge is requested to dispose of the same after hearing the applicant, within the next two weeks.

6. It is clarified that the second application shall be

heard only on the new ground raised. However, if the applicant is not discharged, and is required to take recourse to further remedy, all the contentions raised, including the contentions which are rejected in the order impugned dated 06.06.2019, are kept expressly open.

7. The revision application is disposed of in the aforestated terms.

JUDGE

NSN