

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

CRIMINAL APPLICATION (APL) NO. 1167 OF 2019

Dinesh S/o. Dnyandevrao Pawade,
Aged about 42 years, Occupation - Business,
R/o. Padam Saurabh Colony,
Vidharbh Mahavidyalaya,
Amravati.

.....APPLICANT

... **VERSUS** ...

1. State of Maharashtra,
Through P. S. O. Police Station,
Talegaon Dasesar, District Amravati.
2. Abhijit S/o. Balasaheb Naik,
The Tehsildar Dhamangaon Railway,
Tehsil-Dhamangaon Railway,
District – Amravati.

.....NON-APPLICANTS

Shri T. H. Bewali, Advocate for the Applicant.

Shri S. S. Doifode, Additional Public Prosecutor for the Non-applicant No.1.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 23.08.2021.

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

1. Heard.
2. Rule. Rule is made returnable forthwith.
3. By this application under Section 482 of the Code of Criminal Procedure, the applicant is challenging registration of the First Information Report No.244/2018 dated 19.11.2018 registered with the non-applicant No.1 - Police Station for the offences punishable under Sections 307, 353, 332, 186 read with

Section 34 of the Indian Penal Code and Section 184 of the Motor Vehicle Act, 1988 and consequent proceedings bearing Sessions Case No.297/2019 pending before the learned District Judge – 4 and Assistant Sessions Judge, Amravati.

4. The First Information Report came to be registered against the applicant and others with the accusations that when the complainant was proceeding from Dhamangaon to Chandur Railway, he got suspicion about a truck and therefore, he tried to stop the said truck. It is alleged that the said truck was carrying sand and all the accused in collusion with each other tried to kill the informant by giving dash to the vehicle of the informant with intention to kill him while he was discharging official duty. The Investigating Agency carried out the investigation and filed charge-sheet against the applicant and other accused persons.

5. The applicant has therefore filed present application challenging registration of the First Information Report, filing of charge-sheet and continuation of proceedings against the applicants. This Court on 08.11.2019, issued notice to the non-applicants. The non-applicant No.1 has filed reply dated 26.11.2019. The non-applicant No.1 in the said reply has stated that the applicant is the registered owner of the truck bearing No. MH-27-BX-0290 and had secured tender for excavation of sand. It is stated that when the informant tried to stop the truck, there was

collision between the truck and the vehicle of the informant as all the accused intended to kill the informant. It is stated that there is sufficient material against the applicant.

6. We have carefully considered the allegations in the First Information Report and the material produced by the applicant by way of charge-sheet. The statement of Bhupendra Pandurang Soyam recorded on 23.11.2018 shows that the applicant was at the site of excavation of sand at 9.00 a.m. at 19.11.2018. It is stated in the said statement that after the sand was loaded on the truck, the applicant left the excavation site of sand by his car. The statement of Prakash Murlidhar Badhe, who is serving as a peon with the office of the informant stated that the truck came at the site of incident around 12.00 p.m.. There is nothing placed on record by the prosecution to connect the applicant with the accident of the car of the informant. There are no allegations or material to show that the applicant had anyway instructed the driver to dash the car of the informant with the intention to kill him. The document at page No. 102 which is Invoice Report shows that the vehicle was carried sand of 2 Brass, which was as per the permit issued by the Tahsildar, Babhulgaon on 17.11.2018, which is at page No.104 of the application. The Injury Certificate placed on record at page No.47 shows only abrasion over the forehead of the informant.

7. Taking into consideration the material on record, we are satisfied that there is no evidence to connect the applicant with the incident alleged in the First Information Report. In absence of the material to connect the applicant with the incident, the continuation of proceedings against the applicant would amount to abuse of process of Court.

8. We therefore, pass following order :

The First Information Report No.244/2018 dated 19.11.2018 registered with the non-applicant No.1 - Police Station for the offences punishable under Sections 307, 353, 332, 186 read with Section 34 of the Indian Penal Code and Section 184 of the Motor Vehicle Act, 1988 and consequent proceedings bearing Sessions Case No.297/2019 pending before the learned District Judge – 4 and Assistant Sessions Judge, Amravati are quashed and set aside against the applicant only.

9. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

JUDGE