

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

CRIMINAL WRIT PETITION NO. 142/2022

Amjat Ali Husain Afzal Ali and ors ..Versus...State of Maharashtra and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. R.R.Vyas, Advocate for Petitioners
Mr. A.R.Chutke, APP for respondents

CORAM : AVINASH G. GHAROTE, J.

DATE : 04/05/2022

1] Heard learned counsel for the parties.

2] The order dated 20.1.2022 passed by Respondent No.2 is challenged to the extent that it directs initiation of proceedings under Section 110 of Cr.PC and the conditions upon which an order is to be passed therein.

3] It is contended by Mr. Vyas, learned counsel for the petitioner that any initiation of proceedings under Section 110 of Cr.PC. and the conditions to be imposed by the Magistrate have to be upon the satisfaction of the Magistrate, as to the existence of the conditions given therein and cannot be at the instance of the Respondent No.2.

4] Learned APP fairly does not dispute that this is the position as is spelt out from Section 110 of the Cr.PC.,

considering which the impugned order in so far as it directs initiation of proceedings under Section 110 of Cr.PC and specifies the conditions upon which such an order has to be passed, cannot be sustained and is accordingly quashed and set aside.

5] Needless to say that it would be open to the authority to initiate appropriate proceedings under Section 110 of Cr.PC. and if such proceedings are initiated, then the learned Magistrate seized with the matter shall be entitled to impose such conditions as he may deem fit and proper on the facts and circumstances before him.

6] The petition is accordingly allowed in above terms. No order as to costs.

Rvjalit

JUDGE