

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

CRIMINAL APPLICATION (APL) NO. 265 OF 2022

1. Dharmpal Natthuji Meshram,
Aged about 50 years, Occu. Business,
R/o. 477, Hiwari Layout, Wathoda Road,
Nagpur.
2. Smt. Manisha Sunil Kothe,
Aged about 50 years, Occu. Housewife,
R/o. 79, Shaktimata Nagar, Kharbi Road,
Near Water Tank, Nandanwan, Nagpur.
3. Smt. Smita Rajendra Chakole,
Aged about 46 years, Occu. Housewife,
R/o. 26, Kamalkunj, Near Ganesh Mandir
Vidya Nagar, Wathoda Layout, Nagpur.
4. Ashok Ajabrao Deshmukh,
Aged about 34 years, Occu. Driver,
R/o. 17, Antuji Nagar, Behind Uday
School, Near Bhandewadi Railway Station,
Nagpur.
5. Devendra Ambadas Katolkar,
Aged about 47 years, Occu. Private Service,
R/o. 86, Srikrishna Nagar, Wathoda
Layout, Nagpur.
6. Bala Vitalkar,
Aged about 45 years, Occu. Private Service,
R/o. 41, Bahubali Nagar, Ramnamaroti
Road, Nagpur.
7. Vinod Baburaoji Kunte,
Aged about 55 years, Occu. Private Service,
R/o. 120, Gidoba Nagar, Wathoda Layout,
Nagpur.
8. Smt. Nanda Shrawan Yewle,
Aged about 50 years, Occu. Housewife,
R/o.134, Hasanbagh, Diamond Nagar
Road, Sahakar Nagar, Nagpur.

9. Krishna Pancham Khopde,
Aged about 63 years, Occu. Private,
R/o. Sataranjipura Subhash Putla,
Near Telipura Hanuman Mandir,
Lakadganj, Nagpur.

---APPLICANTS.

---VERSUS---

1. State of Maharashtra,
Through Ministry for Home,
Mantralaya, Mumbai – 32.

2. Station House Officer, Police Station :
Nandanwan, Dist : Nagpur.

---NON-APPLICANTS

Mr. R. K. Maheshwari, Advocate for the Applicants.

Mr. T. A. Mirza, Addl. Public Prosecutor for the Non-applicant/State.

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

DATE : 31.03.2022.

JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.

2. **Rule.** Rule made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicants are challenging registration of the First Information Report along with consequent charge-sheet bearing No.433/2020 dated 29.12.2020 registered with the non-applicant No.2 – Police Station for the offences punishable under Sections 188 and 270 of the Indian Penal Code, Section 51(b) of

the Disaster Management Act, 2005, Section 3 of the Epidemic Diseases Act, 1897 and Section 135 of the Maharashtra Police Act, 1951 and Criminal Proceedings Bearing S.C.C.No.9293/2021 pending before the learned 5th Jt. Civil Judge Junior Division and Judicial Magistrate, First Class, Nagpur.

4. The First Information Report came to be registered against the applicants with the accusations that on 14.08.2020, the applicants were making agitation at Hiwari Nagar Power House within the jurisdiction of non-applicant No.2 - Police Station. It is therefore alleged that the applicants have violated provisions of Section 144 of the Code of Criminal Procedure.

5. We have carefully considered the allegations in the First Information Report and judgment of this Court in Criminal Application (APL) No.453/2020. After analyzing the First Information Report along with the judgment of this Court in Criminal Application (APL) No.453/2020 (HLA SHWE and Ors. Vs. State of Maharashtra), we are satisfied that the point involved in the present case is squarely covered by the judgment in the case of HLA SHWE (*supra*). We have independently considered the material in the form of charge-sheet and other materials and, we are satisfied that in so far as the offences in relation to Sections 188 and 270 of the Indian Penal Code, Section 51(b) of the Disaster Management Act, 2005, Section 3 of the Epidemic

Diseases Act, 1897 and Section 135 of the Maharashtra Police Act, 1951 are concerned, the essential ingredients of the said offences are not made out, even if, the allegations in the First Information Report along with material in the form of charge-sheet are taken on their face value.

6. We are, therefore, satisfied that the continuation of prosecution against the applicants would amount to abuse of process of Court.

7. We therefore, pass following order :

The Rule is made absolute in terms of prayer clause (i), which reads as under :

“quash charge sheet bearing no.433/2020 dated 29/12/2020 which is filed on 15/07/2021 vide filling no.14351/2021 and is registered as S.C.C.9293/2021 in Crime No.0566/2020 registered by respondent no.2 Police Station NANDANWAN District - NAGPUR for offences under Section 188 & 270 of Indian Penal Code, 1860; Section 51(b) OF Disaster Management Act, 2005; Section 3 of Epidemic Diseases Act, 1897 AND Section 135, OF Maharashtra Police Act, 1951.”

Pending application(s), if any, stand(s) disposed of.