

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

CRIMINAL APPLICATION (APL) NO. 152/2016

Hemchandra Doduraj Kamble,
Age 57 years, Occ. Add Public
Prosecutor, R/o. 302, Honey Roma Sama
Compound Mohan Nagar, Nagpur.

... **APPLICANT**

VERSUS

1. The State of Maharashtra
through PSO Sitabuldi, Nagpur.
2. Ku. Madhuri d/o Hanumantrao
Waghade, aged about 25 years,
Occ. Service, Police Station
Sitabuldi, Nagpur.
3. Ku. Tejashwini D/o Santosh
Kuthe, aged about 20 years, Occ.
Student, R/o. Nalanda Nagar,
Kapil Chowk, PS Yashodhara
Nagar, Nagpur.

...**NON-APPLICANTS**

Mr. S. G. Malode, Advocate for the applicant.
Mr. S. M. Ukey, A.P.P for non-applicant No.1/State.

CORAM : **VINAY JOSHI, J.**
DATE OF JUDGMENT : **20.07.2022.**

ORAL JUDGMENT :

Heard finally by consent of respective parties.

3. The applicant has impugned herein the order dated 21.11.2015 passed in MCA No. 3894/2015, by which the Magistrate has rejected the prayer made under Section 156(3) of the Code of Criminal Procedure ('Code'). The learned counsel appearing for the applicant would submit that the application moved under Section 156(3) of the Code makes out a case of cognizable nature and thus, the Magistrate ought to have directed the Police to register an offence. The State opposed this application by contending that the contents of applications are even if taken it as a true, it does not make out prima facie case and it is after thought version.

4. Perusal of the application filed to the Magistrate states story of road accident dated 30.09.2014. The applicant stated that at around 09.30 pm, there was a dash of his car with two wheeler driven by one girl. Since the two wheeler mistakenly gave a dash, such entry was registered at station diary. It is alleged that there after non-applicant No. 2, Police Officer approached to the applicant on 02.10.2014 and raised monetary demand for non-registration of crime. He has submitted that, as the amount was not paid, false charge-sheet was

filed against him for the offence punishable under Sections 279 and 337 of the Indian Penal Code. It is also contended that the investigation paper contains a false and fabricated documents and therefore, it needs investigation.

5. Perusal of record indicates that alleged road accident took place on 30.09.2014. On the very day, a station diary entry was made at Sitabuldi Police Station noting the incident. It appears that latter on, the Police carried out preliminary investigation and registered offence against the applicant 11.10.2014 and was followed by filing of charge-sheet on 4th May, 2015. Notably, the applicant has approached to the Magistrate after filing of charge-sheet i.e. on 3rd October 2015. it reveals that the principal allegation is that the non-applicant No.2 has raised a monetary demand for desisting from taking any action. It requires to be noted that the applicant was working as an Additional Public Prosecutor at Bhandara and thus, he knows the ways as to what to do, when a public servant raises a monetary demand for illegal purpose. Therefore, prima facie, there appears to be no substance in said allegation to proceed further.

6. Certainly, at the stage of issuing direction under Section 156(3) of the Code, the Magistrate has to apply his mind to the limited extent as he cannot act as a postman to forward the application to the

Police. It appears that the grievance of applicant is of filing of charge-sheet. Admittedly, the applicant has not applied for quashing of charge-sheet, but he faced the trial. It is difficult to hold that false documents were prepared for filing of the charge-sheet. The applicant is unable to point out the documents which are allegedly forged. The impugned order specifies the reasons for rejection which cannot be faulted with. In view of that, no case of interference is made out. Hence, application stands rejected and disposed of.

(VINAY JOSHI, J.)

Gohane

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