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

CRIMINAL APPLICATION (APL) NO.362 OF 2019

Arun s/o Khushalrao Lad,
Aged about years, occupation
private, r/o Khaparkhed Lad, taluka
Lonar, district Buldhana. **Applicant.**

:: V E R S U S ::

1. The State of Maharashtra,
Through Police Station
Officer, Police Station Bibi,
Taluka Lonar, district Buldhana.

2. Bhanudas Bhagwan
Mahadik, aged about 53
years, occupation service, r/o
Police Station, Bibi, Police
Station, Buldana. **Non-applicants.**

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Shri S.Andhare, Adv. h/f Shri A.V.Band, Counsel for the applicant.
Shri S.M.Ghodeswar, Addl.P.P. for the State.
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CORAM : V.M.DESHPANDE & AMIT B.BORKAR, JJ.
DATE : APRIL 01, 2022

ORAL JUDGMENT (Per : Amit B.Borkar, J.)

1. Heard Advocate Shri S.Andhare h/f learned counsel Shri
A.V.Band for the applicant and learned Additional Public Prosecutor Shri
S.M.Ghodeswar for the State. **Rule.** Rule made returnable forthwith.
Heard finally by consent of learned counsel for parties.

2. By the present application, under Section 482 of the
Criminal Procedure Code, the applicant challenges registration of First

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Information Report No.211/2018 dated 2.12.2018 registered with Police Station Bibi, tahsil Lonar, district Buldhana for offences punishable under Sections 353, 379, and 506 read with Section 34 of the Indian Penal Code.

3. The First Information Report came to be registered against the applicant with allegations that while complainant Assistant Police Sub Inspector Bhanudas Mahadik was on duty, he received an information that illegal sand transportation was carried in a tractor to Chickhla Kakad. Therefore, he along with a police constable went to the spot. He stopped the tractor and enquired driver of the tractor about royalty pass for transporting the sand in the tractor. At that time, the applicant came there on his motorcycle and asked the complainant as to whether the complainant knows him and why he stopped the said tractor. In response thereto, the complainant told the applicant that since the sand is being transported illegally in the tractor, action needs to be taken. The applicant, thereafter, misbehaved with the complainant and manhandled the police constable. It is alleged that the the applicant asked the driver of the tractor to flee away from the spot. Thereafter, the complainant lodged the First Information Report.

Hence, the present application challenging the First

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Information Report.

4. This Court (Coram : Z.A.Haq and Vinay Joshi, JJ.) on 8.4.2019, issued Noticed to non-applicants. In response to the Notice issued, non-applicant No.1/State filed its reply stating in it that during course of investigation medical examination of injured police constable was conducted and injury certificate is also placed on record. Investigating Officer recorded statement under Section 27 of the Evidence Act and seized the motorcycle of the applicant. The tractor transporting the sand illegally were also seized.

5. Learned counsel for the applicant submitted that there is no allegation of criminal force being used by the applicant on the complainant and, therefore, essential ingredients of offences alleged against the applicant are not fulfilled. He submitted that the applicant is working as a Lecturer and the tractor is not owned by the applicant.

6. Learned Additional Public Prosecutor for the State supported the registration of the First Information Report and the said is also stated in the Reply on behalf of Investigating Officer.

7. Having carefully considered allegations in the First Information Report and reply on behalf of Investigating Officer, in our

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opinion allegations in the First Information Report and contents in the reply *prima facie* fulfill essential ingredients of offences alleged against the applicant. *Prima facie*, it appears that the police constable was injured in the scuffle. In this view of the matter, investigating agency needs to be given an opportunity to prove its case during trial.

8. At this stage, we are not going into correctness or otherwise allegations made against the applicant. There is no merit in the application and, therefore, the applicant is **rejected** and **disposed** of.

The Rule stands discharged.

9. Needless to mention that *interim* order stands vacated.

JUDGE

JUDGE

!! BRW !!

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