

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

**CRIMINAL APPLICATION NO. 792 OF 2022**

Sarvesh Ramesh Balgu, Aged about 36  
years, Occ – Labour, Telgu Dafai, R/o  
Majri Colliery, Bhadrawati,  
Chandrapur.

... **APPLICANT**

**VERSUS**

State of Maharashtra, Through  
PSO Majri, Taluka Bhadrawati,  
Chandrapur.

**... NON-APPLICANT.**

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Shri M.N. Ali, Advocate for the applicant.  
Shri S.M. Ukey, A.P.P. for the non-applicant.

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**CORAM** : **VINAY JOSHI, J.**  
**DATED.** : **24.06.2022.**

**ORAL JUDGMENT :**

Heard. ADMIT.

2. Heard finally by consent of both the parties.

3. The applicant raises a challenge to the order of conviction in Summary Criminal Case No.115 of 2022. The learned Magistrate has recorded the conviction on plea of guilty and as there is no provision of appeal that is why the applicant has invoked inherent powers of this Court.

4. It is argued that the applicant has not pleaded guilty before the Magistrate, however, the offence being of petty nature, the learned Magistrate by relying on some printed Proforma has treated it to be the applicant's urge for pleading guilty and accordingly, recorded the order of conviction. The applicant was prosecuted for rash and negligent driving punishable under Section 279 of the Indian Penal Code. The learned Magistrate has informed the substance of accusation of the applicant in terms of Section 251 of the Code of Criminal Procedure. Since the applicant-accused allegedly pleaded guilty, he has been convicted in terms of Section 252 of the Code of Criminal Procedure by which he was sentenced to pay fine of Rs.1,000/- with stipulation

of default.

5. Learned Counsel for the applicant has argued that the applicant is Telugu speaking person and does not understand vernacular language properly. He has submitted that his signature was obtained in hurried manner on one printed proforma creating impression that he pleads guilty. There is no procedure under the Court to take a Pursis of the accused while recording his plea. The plea recorded by the learned Magistrate bears a specific question no.3 as 'do you plead guilty'. Pertinent to note that the column of answer is totally kept blank meaning thereby the Magistrate has not applied his mind in recording the plea of the applicant-accused. The said affair clearly gives impression that since the answers to all the questions are blank there is total non-application of mind on the part of the Magistrate, while disposing the case.

6. Every accused has a right to defend the charges which are levelled against him. The record prominently indicates that the accused was not inquired about his wish to plead guilty or

otherwise. Therefore, it is necessary to set aside the impugned order and to revert the proceeding at its original stage.

7. In view of that, the applications stands allowed. The impugned order of conviction dated 12.03.2022 passed in Summary Criminal Case No. 115 of 2022 is hereby quashed and set aside. The concerned criminal case is restored at the stage of recording plea. The learned Magistrate shall record plea of the applicant-accused afresh and proceed further in accordance with law.

8. The Criminal Applicants is disposed of in the above terms.

(VINAY JOSHI, J.)

*Trupti*