

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

Criminal Application (APL) No.600 of 2019

Shri Pravin Pralhad Tayde

Versus

The State of Maharashtra and another

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

Shri W.N. Nayse, Advocate for Applicant.

Shri S.M. Ghodeswar, Additional Public Prosecutor for
Non-Applicant No.1.

Shri D.V. Mahajan, Advocate for Non-Applicant No.2.

CORAM : SUNIL B. SHUKRE & M.W. CHANDWANI, JJ.

DATE : 21st NOVEMBER, 2022

1. Heard the learned counsel for the applicant, the learned Additional Public Prosecutor for the non-applicant No.1-State, and the learned counsel for the non-applicant No.2.
2. On going through the F.I.R. made against the applicant, we find that the allegations are specific in nature, *prima facie*, constituting the offences registered against the applicant.
3. Our attention has been drawn by the learned counsel for the applicant to the affidavit filed on record by the complainant, i.e. the non-applicant No.2, and the order passed by this Court on 12-10-2022 directing the non-applicant No.2 to remain personally present before this Court on 20-10-2022 and thereafter on 21-11-2022. According to the learned counsel for the applicant, the affidavit filed by the non-applicant No.2 would itself show that the F.I.R. filed by her was false. The learned counsel for the non-applicant No.2 submits that he has no instructions from the non-applicant No.2 and he does not know why the non-applicant has remained absent today.
4. More than filing of the affidavit-in-reply by the non-applicant No.2 and more than personally attending this Court by her, what is more important is the circumstances in which the affidavit

dated 12-6-2019 has been filed. This affidavit has been filed not by the non-applicant No.2, but by the applicant. It is not known as to in what circumstances this affidavit has been sworn-in by the non-applicant No.2, if at all it has been sworn-in by her. It is not the case of the non-applicant No.2 that after the receipt of the notice of this application, she has on her own filed this affidavit. So, it would be a matter of enquiry regarding the circumstances in which the affidavit dated 12-6-2019 has been filed by the non-applicant No.2. But, that enquiry does not appear to be possible right now, as the non-applicant No.2 is not responding in any manner. In these circumstances, the *prima facie* inference that can be drawn is that the applicant has overstepped his limits and has, *prima facie*, tried to tamper with the prosecution witnesses. If this is so, we do not think that an accused, like the applicant, would deserve any support from this Court. Taking cognizance of the affidavit in question filed in the circumstances referred to above, would be like letting the applicant abuse the process of law. Thus, we are not inclined to entertain this application.

5. The criminal application stands dismissed.

6. The remuneration of Rs.5,000/- (Rupees Five Thousand) be paid to the learned counsel appointed for the applicant.

(M.W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)

Lanjewar