

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

CRIMINAL APPLICATION (APL) NO.616/2019

Mangesh Ratiram Shende .vs. State of Maharashtra through PSO P.S.
Armori, Gadchiroli and anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms Divya Joshi, Advocate for applicant.

Mr. S. S. Doifode, A.P.P. for non applicant no.1-State.

Ms Sneha Dhote, Advocate appointed for non applicant no.2.

CORAM : V. M. DESHPANDE & AMIT B. BORKAR, JJ.

DATED : APRIL 28, 2022.

Heard Ms Joshi, learned counsel for applicant,
Mr. Doifode, learned A.P.P. for non applicant no.1-State and
Ms Dhote, learned counsel appointed through High Court
Legal Services Sub Committee, Nagpur for non applicant
no.2.

By this application under Section 482 of the Code
of Criminal Procedure, which was filed on 17.06.2019, the
applicant challenged First Information Report bearing Crime
No.13/2019, dated 16.01.2019 registered with Police Station
Armori, District Gadchiroli, for an offence punishable under
Section 376 (2) (n) and 417 of the Indian Penal Code.

This application was listed before this Court on
05.07.2019 and this Court (Coram: P. N. Deshmukh and
Pushpa V. Ganediwala, JJ.) issued notice to the non
applicants and granted interim order to the extent that
though investigation may continue, charge-sheet shall not be
filed without leave of the Court.

It appears that in spite of the same, charge-sheet was filed. Therefore, the applicant filed an application for amendment and it appears that the amendment application was allowed permitting the applicant to challenge the charge-sheet.

Be that as it may, when it was found by this Court that in spite of interim directions the charge-sheet is filed, this Court directed the learned A.P.P. to file an explanation on behalf of the investigating officer as to why in spite of order, charge-sheet came to be filed.

The learned A.P.P. for the State, invited our attention to the reply filed on behalf of the investigating officer containing explanation offered by the investigating officer. The said explanation is offered in paragraph no.8 of the reply. Reading of the said reply would made it crystal clear that the interim order was not communicated to the investigating officer and it was not made known to the investigating officer from the District Headquarters at Gadchiroli about passing of the interim order. It appears that therefore there was no fault on behalf of investigating officer.

We, therefore, accept the explanation given by the investigating officer.

Now turning to the merits of the matter, on 25.04.2022, Ms Divya Joshi, learned counsel for applicant sought time to make submissions about further progress of the prayer and prays that the matter be kept after summer vacation. However, Mr. Doifode, learned A.P.P. submitted

that if two days' time is given to him, he will obtain instructions on telephone from the local A.P.P. Hence, the matter is kept today.

Today, when the matter was called out, Mr.Doifode, learned A.P.P. tenders a photocopy of certified copy of the judgment of the Additional Sessions Judge, Gadchiroli. It is pointed out that the learned Judge has already acquitted the applicant-Mangesh Ratiram Shende. Copy of the judgment tendered across the bar by the learned A.P.P. is taken on record and marked "X" for the purpose of identification.

In view of the fact that learned Judge has already acquitted the applicant in Special Child Protection Case No.38/2019 vide judgment of acquittal dated 16.11.2021, in our view, nothing survives in the present matter. The application is, therefore, disposed of as such.

Professional charges of Ms Dhote, learned appointed counsel for the non applicant no.2 are quantified at Rs.2500/-.

JUDGE

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