

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

CRIMINAL WRIT PETITION NO. 580 OF 2022

Sau. Prachi Nikunj Harlalka, age about
 34 years, Occ – Honorary Service c/o
 Rajesh Muktilal Paldiwal, Shegaon, Tq.
 shegaon, Distt. Buldhana

... PETITIONER

VERSUS

1. State of Maharashtra, through PSO,
 Shegaon City Police Station,
 Shegaon, Taluka – Shegaon, District
 – Buldhana.
2. Nikunj Ramakant Harlalka, Age
 about 36 years, Occ - Business.
3. Urmila Ramakant Harlalka, age
 about 61 years, occ – Business.
4. Nishant Ramakant Harlalka
 age about 34 years, Occ – Business

No. 2 to 4 R/o 1801/1802/1803 Ivy
 Towers, Off Vasant Valley Complex
 Malad East, Mumbai / 400097

... RESPONDENTS

Shri K.S. Ganorkar, Advocate h/f Shri A.D. Bhate, Advocate for the
 petitioner.
 Shri I.J. Damle, A.P.P. for the respondent no. 1.

CORAM : VINAY JOSHI, J.
DATED. : 08.09.2022.

ORAL JUDGMENT :

Heard.

2. The petitioner (informant) has challenged the even dated orders of the Trial Court of 03.03.2022 on Exhibit 14 and 15 by which the Trial Court directed to proceed with the discharge application without say of the informant. At the instance of the petitioner, crime was registered by the Police for the offence punishable under Section 498(A), 506, 365 read with 34 of the Indian Penal Code, which was culminated into a filing of charge-sheet numbered as R.C.C.154 of 2021. In said proceeding, two accused have applied for discharge vide applications at Exhibit 14 and 15. The petitioner in the capacity of informant, sought permission to assist the prosecution, which was allowed, however, the Trial Court declined for granting petitioner further time to file say to discharge application, on the ground that several opportunities were given.

3. Having regard to the limited controversy and as it is a State case, I do not deem it necessary to issue notice to respondent nos. 2 to 4, who are the accused as it will unnecessarily prolong the matter.

4. Heard finally by consent of both learned Counsel appearing for the parties.

5. It reveals from the record that two accused have applied for discharge on 16.07.2021 vide application at Exhibit 14 and 15, which remain to be undecided for longer period. On 03.03.2022, the Trial Court has allowed the petitioner's application to assist the prosecution, but declined to grant further time to file reply to discharge application in resistance.

6. It is informed that the Trial Court has fixed the matter on 29.09.2022 for hearing on discharge application. The petitioner is aggrieved party. Already the Trial Court permitted the petitioner to assist the prosecution. In the eventuality, allowing the petitioner to file reply to discharge application, would also meet the principle of natural justice. Of course, the petitioner has limited rights to assist the prosecution as permissible under law. Denial to file say may cause injustice.

7. In view of that, both impugned orders dated 03.03.2022 passed on Exhibit 14 and 15 to the extent of denying petitioner from filing say, are set aside. The petitioner is permitted to file reply to both discharge applications Exhibit 14 and 15 on 29.09.2022. It is hereby

made clear that, if the petitioner fails to file reply on 29.09.2022 to discharge application, this petition shall be treated as dismissed and the Trial Court is free to proceed on the matter, without reply.

8. The petition stands disposed of in above terms. No order as to costs.

(VINAY JOSHI, J.)

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