

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

CRIMINAL APPLICATION (APL) NO.1355 OF 2021

Nawab Malik Mohammad Islam Malik
Vs.
Sanjay Shankarrao Wankhade and another

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

Court's or Judge's orders

Mr. J. B. Gandhi, Advocate for applicant.
Mr. A. R. Deshpande, Advocate for non-applicant no.1/State.
Mr. I. J. Damle, APP for non-applicant no.2/State.

CORAM : AVINASH G. GHAROTE, J.
DATE : 03/03/2022

Heard Mr. Gandhi, learned counsel for the petitioner, Mr. Deshpande, learned counsel for non-applicant no.1 and Mr. Damle, APP for non-applicant no.2/State.

2. The application challenges the order dated 04.12.2021, passed by the learned Special Court under the Atrocities Act, on an application under Section 156(3) of the Code of Criminal Procedure (for short "Cr.PC") read with Section 3(1)(q)(r)(u) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, filed by the respondent no.1. Without going into the merits of the matter, a perusal of the impugned order would indicate, that considering the language of Section 156(3) of the Cr.P.C., the same cannot be sustained as before taking cognizance and issuance of process / notice, the learned Special Court,

shall have to take into consideration, what is required to be done under Section 156 of the Cr. P. C. In light of which, the impugned order dated 04.12.2021, is hereby quashed and set aside and the matter is remitted back to the learned Special Court for consideration, as per law.

3. Insofar as, the later part of prayer clause (1) relating to quashing of proceedings is concerned, since the impugned order dated 04.12.2021, in my considered opinion, does not amount to taking cognizance of the complaint, the said prayer cannot be considered at this stage.

4. The criminal application is accordingly partly allowed, in the above terms. No costs.

JUDGE

Sarkate