



being unduly onerous, provides an equally efficacious remedy. Though no hurdle can be put against the exercise of constitutional powers of the High Court, it is a well-recognized principle which gained judicial recognition that, the High Court should direct the party to avail himself of such remedies one or the other before he resorts to a constitutional remedy.

Reliance can be placed on the following decisions :

- i) *Thansingh Nathmal Vs. The Superintendent of Taxes, Dhubri & Ors., reported in AIR 1964 SC 1419.*
- ii) *A. Venkatasubbiah Naidu Vs. S. Chellappan & Ors., reported in (2000) 7 SCC 695.*
- iii) *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil, reported in (2010) 8 SCC 329.*
- iv) *Radhey Shyam & Anr. Vs. Chhabi Nath & Ors., reported in (2015) 5 SCC 423*
- v) *Genpact India Private Limited Vs. Deputy Commissioner of Income-Tax & Anr., reported in (2019) 419 ITR 440 (SC).*
- vi) *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Ors. vs. Tuticorin Educational Society & Ors. Reported in (2019) 9 SCC 538.*

3. According to us, filing an application for discharge before the trial Court is not an onerous remedy and in fact an equally efficacious remedy. The Petitioner cannot be permitted to raise a spacious plea calling upon this Court to adjudicate his innocence in a petition under Article 226 of the Constitution of India. It is against the settled principles of law. At the same time, the Petitioner cannot be permitted to make the statutory provisions of the Cr.P.C. otiose by directly approaching this Court under Article 226 of the Constitution of India.

4. In view of the above and by reserving the remedy of filing an application for discharge before the trial Court in favour of the Petitioner, petition is disposed off.

4.1 All contentions of both parties are kept open.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)