

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

CRIMINAL APPLICATION (APL) NO. 720 OF 2023

APPLICANT : Dhanraj S/o Ashok Lahariya,
Aged about : 39 Yrs. Occ : Ex-Serviceman,
R/o Gaddam Plot, Railway B Cabin,
Akola.

V E R S U S

RESPONDENTS :

1. State of Maharashtra
Through its Police Station Officer,
Police Station, Hudkeshwar,
Tah. & Distt.: Nagpur.
2. Prateek S/o Dujendrakumar Sharma,
Aged about : 32 Yrs. Occ : Lawyer,
R/o "Shree Narayani", Plot No.32,
Indraprasth Lay-out, Near Bhende
Lay-out, Bhamti Ring Road, Nagpur.

Shri V. N. Morande, Advocate for applicant.
Shri S. S. Doifode, Additional Public Prosecutor for respondent No.1.
Shri Ved Deshpande, Advocate for respondent No.2.

CORAM:- VINAY JOSHI AND
VALMIKI SA MENEZES, JJ.
DATED : 13/06/2023.

ORAL JUDGMENT : (PER VINAY JOSHI, J.) :

1. **Admit.** Heard finally with the consent of learned
counsel appearing for the parties.

2. This is an application of accused No.7 - Dhanraj s/o
Ashok Lahariya seeking to quash FIR as well as charge sheet
relating to Crime No.502/2020 for the offences punishable under
Sections 395, 323, 504 r/w Section 34 of the Indian Penal Code.

3. It is submitted that except reference in the FIR, there is nothing against applicant – Dhanraj s/o Ashok Lahariya. Besides, it is argued that even if the contents of FIR are taken at its face value, it does not disclose commission of cognizable offence on the part of applicant – Dhanraj. The applicant would submit that perusal of entire charge sheet, does not bear any reference regarding role led by Dhanraj in the occurrence.

4. Shri Deshpande, learned counsel for the informant has conceded the position that he has no objection to quash criminal prosecution to the extent of Dhanraj. With the assistance of both sides, we have gone through the FIR. The main allegations are against the co-accused. We find reference of Dhanraj to the extent that after incident Dhanraj along with brother Aniket arrived on the spot. Besides that, no role is assigned to Dhanraj. We have examined the statements of other witnesses who have stated nothing against Dhanraj. Moreover, applicant has pointed out that the informant himself gave a letter to the police dated 06/12/2020 wherein he clarified that under misconception, he has stated the name of Dhanraj and thus, he does not want to prosecute him. Considering the said position, the chances of conviction are remote and bleak. The continuation of prosecution amounts to abuse of

process of Court. In view of that, application is allowed. We hereby quash and set aside the criminal prosecution to the extent of Dhanraj arising out of Crime No.502/2020 which is numbered as RCC No. 615/2023 pending on the file of Judicial Magistrate First Class, Nagpur.

5. While parting with the order, we came across the situation that the brother of Dhanraj namely; Aniket Ashok Lahriya is also sailing in the same boat. Similarly, besides his name in the FIR, there is nothing against him. On query, Advocate Shri Deshpande also conceded the said position. Facing of criminal prosecution is serious affair which may affect the personal liberty of citizens. Therefore, we deem it appropriate to exercise our inherent jurisdiction to quash the criminal prosecution against Aniket also to secure the ends of justice, though he has not applied. In view of above, we hereby also quash and set aside the criminal prosecution against Aniket (accused No.6) relating to above FIR and criminal case.

6. Application stands disposed in the above terms.

[VALMIKI SA MENEZES, J.]

[VINAY JOSHI, J.]