

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

CRIMINAL APPLICATION [APL] NO. 861/2023.

1.Sahil Asif Rangoonwala,
Aged 26 years,, Occupation
Student, Resident of Plot No.4,
Tawakkal Will, Raj Nagar,
Katol Road, Nagpur.

2.Saif Asif Rangoonwala,
Aged 29 years,, Occupation
Student, Resident of Plot No.4,
Tawakkal Will, Raj Nagar,
Katol Road, Nagpur.

3.Sohail Asif Rangoonwala,
Aged 30 years,, Occupation
Student, Resident of Plot No.4,
Tawakkal Will, Raj Nagar,
Katol Road, Nagpur.

... **APPLICANTS.**

VERSUS

1.State of Maharashtra,
through Police Station Officer,
Police Station Sitabuldi, Nagpur.

2.Saurabh s/o Suhas Kulkarni,
Aged around 32 years,, Occupation
Private, Resident of 2/85, Sadbhavananagar,
Omkar Nagar, N.I.T. Garden,
Nagpur, Maharashtra.

Rgd.

3.Yash Sharma,
Aged 25 years,, Occupation
Business, Resident of 25, Shilpa
Society, Manish Nagar, T Point,
Beltarodi Road, Nagpur.

... **NON-APPLICANTS.**

Mr. S.V. Manohar, Senior Advocate with Shri Y.N. Sambre,
Advocate for Applicants.
Mr. N.R. Rode, A.P.P. for Non-applicant No.1 /State.
Mr. Z.Z. Haq, Advocate for Non-applicant Nos.2 and 3.

CORAM : VINAY JOSHI AND

VALMIKI SA MENEZES,, JJ.

DATE : AUGUST 07, 2023.

ORAL JUDGMENT (PER VINAY JOSHI, J) :

Admit. Heard finally by consent of the learned
Counsel appearing for the respective parties.

2. This is an application seeking to quash the first
information report bearing Crime No.507/2021 registered with
Sitabuldi Police Station, Nagpur for the offence punishable under
Sections 143, 145, 149 and 307 of the Indian Penal Code, as well as

Rgd.

related charge sheet bearing Final Report No.96/2022.

3. The learned Senior Counsel appearing for applicants would submit that though applicants were present at the relevant time, however, they had not participated in the actual incident of assault. The informant – Saurabh was not knowing names of assailants, therefore, mistakenly he has stated their names which led to registration of crime against them. It is submitted that lateron, the statement of injured was recorded, however, it does not speak about the actual assault on the part of applicants.

4. The learned Counsel appearing for the informant as well as the only injured victim namely Yash Sharma, has accepted the submissions made on behalf of applicants. Moreover, he has submitted that in the concerned incident, applicants have not made any assault, and therefore, he has no objection to quash the first information report and final report.

5. The learned A.P.P. however, objected the application by submitting that the entire incident was captured in CCTV, where

Rgd.

applicants were visible.

6. At the instance of report lodged by the informant Saurabh on 01.11.2021, the crime was registered. The informant along with the injured Yash Sharma and Rahul Nikhade, had been to the concerned hotel. During night hours there was ruckus, wherein several persons have manhandled Yash Sharma and one of them has also hit beer bottle on his head, and therefore, the report.

7. Our attention has been invited to the statement of injured Yash Sharma recorded by the police on the following day. He has stated that at the relevant time, co-accused Raja Shareef hit beer bottle on his head. One Tauseef was present with Raja Shareef. It is pointed out that there was some overwriting in the statement, adding certain names of which only name of Sayed is visible. Contextually we have gone through the affidavit filed by the injured Yash before the police clarifying that in said occurrence, present applicant Sahil, Saif and Sohail had not assaulted, but, as the informant was not aware about their names, it has been mistakenly stated. The informant has filed affidavit-in-reply stating that

Rgd.

applicants had not actually participated in the occurrence.

8. Prima facie it emerges that applicants though were present, however, as the informant was not aware about the name of applicants, on hearsay information, he has stated the same. The injured victim has clarified the position. Witness Rahul, who was present, has also not stated the role of applicants. In the circumstances, there appears to be no material which can lead the applicants to face trial. Always the orders passed under Section 482 of the Code of Criminal Procedure are interim in nature, hence, if during trial any material emerges, the trial Court is free to take further steps in accordance with law. Pertinent to note that the informant as well as the injured have not stated anything against applicants. In the circumstances, continuation of trial against applicants would be an exercise in futility. Facing criminal trial is of serious consequence which may lead to acrimony and bitterness in between the parties. Considering the peculiar circumstances, we are inclined to invoke our inherent jurisdiction and pass the following order.

Rgd.

ORDER

- [i] Criminal Application is allowed and disposed of.
- [ii] The first information report bearing Crime No.507/2021 registered with Sitabuldi Police Station, Nagpur for the offence punishable under Sections 143, 145, 149 and 307 of the Indian Penal Code, as well as related charge sheet bearing Final Report No.96/2022, is hereby quashed and set aside, so far as applicants – [1] Sahil Asif Rangoonwala, [2]Saif Asif Rangoonwala and [3]Sohail Asif Rangoonwala are concerned.

JUDGE

JUDGE