



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

Criminal Application (APL) No. 883 of 2023

n Arshad Hussain @ Aman and anr. ..vs.. State of Maharashtra through PSO PS Cyber Police
Station, Dist. Nagpur and anr.]

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

Court's or Judge's orders

Mr. Md. Naved Opai, Advocate for the applicant
Ms. M. H. Deshmukh, APP for the State/non-applicant no. 1

CORAM : ANIL L. PANSARE J.

DATE : 24-08-2023

By the present application, the applicant/accused is challenging order dated 4-7-2023 passed by learned Judicial Magistrate First Class, Nagpur in Crime No. 26/2023 of Cyber Police Station, Nagpur. The learned Magistrate has granted police custody of 7 days for the alleged offence under Sections 420 of the Indian Penal Code (IPC) read with Section 66d of the Information Technology Act.

2. Learned counsel for the applicant submits that considering the effect of Section 81 of the Information Technology Act, the Information Technology Act being special Act having overriding effect over other laws, the offence punishable under Section 420 of the IPC and Section 66d of the Information Technology Act cannot go together. He submits that provisions of the Information Technology Act have overriding effect and, therefore, the applicant could only be tried under Section 66d, if the allegations to that effect are made out.

3. Section 66d overrides Section 420 of the IPC. Learned counsel for the applicant has relied on the

judgment in the case of ***Gagan Harsh Sharma and anr. Vs. The State of Maharashtra and anr. [2019 ALL MR(Cri) 595]*** to contend that the law is already settled on this point.

4. Learned Additional Public Prosecutor has, however, pointed out that the order remanding the applicant to 7 days police custody was passed on 4-7-2023. The applicant has been now subjected to Magisterial custody and, therefore, present application has become infructuous.

5. Thus, no purpose will be served by keeping the application pending, as nothing remains to be decided, particularly, since according to the learned counsel for the applicant, the law on the above point is already settled.

6. The application is disposed of accordingly.

[Anil L. Pansare, J.]