



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

4 CRIMINAL APPLICATION NO.96 OF 2020

SANTOSH S/O. BHIMAJI GANDHADE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Mr. S. R. Sapkal, Advocate for Applicants.
Mr. A. V. Lavte, APP for Respondent No.1.
Mr. A. S. Gandhi, Advocate for Respondent No.3.
...

CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.
DATE : 21 OCTOBER 2024

ORDER :

. Present application has been filed under Section 482 of the Code of Criminal Procedure for initially quashing the FIR vide Crime No.170 of 2019 dated 26.02.2019 and later on by amendment to quash the proceedings i.e. entire charge-sheet pending before the learned Judicial Magistrate First Class, Parner, District Ahmednagar.

2. After hearing both sides, it has been pointed out that now the learned Judicial Magistrate First Class has framed the charge. Learned Advocate for the applicant is relying on the decision in ***Prashant Bharti Vs. State of NCT of Delhi, [2013***

AIR (SC) 2753], to submit that in spite of the charge being framed, yet this Court can exercise its inherent powers if the material before this Court is sufficient.

3. Upon query, learned Advocate for the applicants submits that applicants never filed any application for discharge before the learned Judicial Magistrate First Class after the charge-sheet was filed on 02.05.2020. Further it appears that when the learned Magistrate would have heard the applicants before framing of charge in view of Section 240 of the Code of Criminal Procedure, even at that time also it was not pointed out on behalf of the applicants as to what is the material before the concerned Court and whether the offence has been made out or not. When as per the law itself two opportunities were available to the applicants to put forth their say and they have failed, we do not take this to be a fit case where we should exercise our inherent powers under Section 482 of the Code of Criminal Procedure.

4. Application stands dismissed.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm