



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

952 CRIMINAL APPLICATION NO. 3355 OF 2024

ASHITA BHIMSINGH GAVIT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Applicant : Mr. S. N. Lale Yelwatkar
APP for Respondent-State : Mr. A. M. Phule
.....

**CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATED : 13 AUGUST 2024

PER COURT :-

1. Present application has been filed for direction that respondent no. 4 be added as accused no.4 in the chargesheet. It is to be noted that in the chargesheet, there is no name of accused no.3, who is stated to be the driver of the Government Vehicle in which the accused no.1 is stated to have been traveling and the incident had taken place. In fact, learned Advocate for the applicant had prayed for converting the application, which he had filed under Section 482 of Cr.P.C., into Writ Petition for invoking Constitutional powers under Article 226 of the Constitution of India.

2. We have perused the chargesheet. The first and the foremost fact is that even after completing the investigation, if the Investigating Officer had not revealed name of the said driver, the question of exercise of the power either under Section 482 of Cr.P.C. or under Article 226 of the Constitution of India will not arise. This Court is not supposed to give any directions after the chargesheet is filed. However, such powers are there with the Magistrate before whom the chargesheet is pending. It can be under Section 173(8) of Cr.P.C. or Section 319 of Cr.P.C. if the name is revealed.

3. In view of this position of law, learned Advocate for the applicant seeks withdrawal of the application with liberty to file appropriate proceedings/application before the Magistrate.

4. In view of said statement, the application is disposed of as withdrawn with liberty as prayed.

[ABHAY S. WAGHWASE, J.]

[SMT. VIBHA KANKANWADI, J.]