



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

CRIMINAL WRIT PETITION NO. 157/2023

Prasad Arvind Abhyankar

Vs.

State of Maharashtra and Ors.

Mr. Shriram Chopde, Advocate h/f. Mr. R. D. Dharmadhikari,
Advocate for Petitioner.

Mr. M. K. Pathan, A.P.P. for Respondent Nos.1 to 4/State.

CORAM : NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED : 18/12/2024.

P.C.

. In exercise of powers under Section 258 of the Code of Criminal Procedure in S.C.C.No.319146/2013, the Judicial Magistrate First Class, Court No.10, Nagpur vide impugned order dated 11.03.2022 was pleased to discharge the accused for an offence punishable under Sections 279, 427 of the Indian Penal Code and Sections 134 and 177 of the Motor Vehicle Act, 1988.

2. We are informed that the respondent accused is already served in the matter. Nobody appears for the respondents accused. As such, the contentions in the petition are not controverted.

3. The discharge of the accused is based on non-effecting the service of the summons on the respondent accused in the pending criminal proceedings.

4. A categorical statement is made by the learned A.P.P. Mr. Pathan that the accused is already served. An office report thereby effecting the service on the accused is already placed on record.

5. That being so, the discharge of the accused in our opinion due to his long absence cannot be said to be sustainable in law, as such, does not appear to be the scheme under Section 258 of the Code of Criminal Procedure, particularly when it is apparent that serious efforts were not made by the respondent to effect the service on the accused during the pendency of the trial.

6. That being so, the order impugned dated 11.03.2022 is hereby quashed and set aside.

7. The trial to be restored on the file of the concerned Judicial Magistrate.

8. The petition, as such allowed and disposed of.

(MRS. VRUSHALI V. JOSHI, J.) (NITIN W. SAMBRE, J.)