



Judgment

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

CRIMINAL APPLICATION [APL] No. 734 OF 2022.

Nayan s/o Nagorao Ingle,
Aged about 24 years, Occupation – Student,
resident of Raigulmohar Apartment,
Flat No.603, Wing No.03, Teka Naka,
Kamptee Road, Nagpur.

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APPLICANT.

VERSUS

1.State of Maharashtra,
through Police Station,
Kalamna, Nagpur.

2.Meghraj s/o Vishwanath Tarade,
Aged about 50 years, Occupation
Service, resident of Quarter No.06,
Police Line Takli, Nagpur.

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NON-APPLICANTS.

Shri A.K. Waghmare, Advocate for the Applicant.
Shri M. Khan, A.P.P. for Non-applicant No.1/State.
None for Non-applicant No.2-Served.

CORAM : VINAY JOSHI AND
VRUSHALI V. JOSHI, JJ.

DATE : JANUARY 30, 2024.

Rgd.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. **Admit.**

By consent of the learned Counsel present for the parties, the matter is taken up for final disposal.

2. This is an application seeking to quash the criminal prosecution bearing JCC No.178/2015, arising out of first information report bearing Crime No.155/2014 registered with Kalamna Police Station, Nagpur for the offence punishable under Section 394, 294, 506 read with Section 34 of the Indian Penal Code.

3. At the instance of a report lodged by the informant / non-applicant no.2 dated 18.05.2014, the aforesaid crime came to be registered. The informant and the main accused Nagorao Ingle both are serving in police department. It is the case of informant that 10 days preceding to the lodgment of the report, he learn that Nagorao has abused him in filthy language. On 14.10.2014 the informant received a phone call from Nagorao, where again Nagorao abused

Rgd.

him. Within short time Nagorao came to the police station along with his wife Jyoti and two sons – Ashish and Nayan (present applicant). All of them quarreled with the informant. It is alleged that they have assaulted the informant and snatched a gold chain worth Rs.90,000/-, therefore, the report.

4. Police have completed the investigation and filed charge sheet against the main accused Nagorao, his wife – Jyoti and son Ashish before the Court of competent jurisdiction. Since the applicant – Nayan was juvenile in conflict with law, a separate report was filed before the Juvenile Justice Board, which is numbered as JCC No.178/2015.

5. The main accused have applied to the trial Court for discharge in terms of Section 239 of the Code of Criminal Procedure, stating that there is no material to proceed further. The learned Magistrate declined to discharge the main accused by rejecting the discharge application vide order dated 09.08.2016. Being aggrieved by the said order, all three accused [Nagorao, Jyoti and Ashish] have moved the revisional Court in terms of Section 397 of the Code.

The learned Sessions Judge after scrutinizing the material was pleased to discharge all of them vide judgment and order dated 07.07.2017. This time the informant felt aggrieved by the decision of the Sessions Court, hence moved this Court vide Criminal Application No.758/2017. After hearing both sides, this Court was of the view that the impugned judgment was well reasoned which calls for no interference, and thus, rejected the criminal application vide order dated 05.02.2021.

6. On above facts, the applicant Nayan against whom charge sheet has been filed before the Juvenile Justice Board claims for quashing of said proceeding. It is informed by the learned Counsel for the applicant that evidence has not yet commenced by the Juvenile Justice Board.

7. With the assistance of both sides, we have examined the material only to find out whether any distinct role has been ascribed to the applicant Nayan, but, we could not find anything. On the said canvass we have noted that rest of the accused who were facing similar allegations have already been discharged and this Court has

put seal on the discharge by order dated 05.02.2021. Admittedly the said order has not been challenged, meaning thereby it has attained finality. In the circumstances, it is not possible for us to take any other view than to adopt the same course as has been approved by this Court.

8. In view of above, Criminal Application needs to be allowed, hence the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The criminal prosecution bearing JCC No.178/2015 pending on the file of Juvenile Justice Board, Nagpur, arising out of first information report bearing Crime No.155/2014 registered with Kalamna Police Station, Nagpur for the offence punishable under Section 394, 294, 506 read with Section 34 of the Indian Penal Code is hereby quashed and set aside.

JUDGE

JUDGE