



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

CRIMINAL APPLICATION (APL) NO.1403/2023

(Shailesh S/o Harish Kulkarni Vs. State of Maharashtra and another)

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

Court's or Judge's orders

Mr. V.V. Bhangde, Advocate for the applicant.
Mr. A.B. Badar, A.P.P. for non-applicant No.1/State.
Mr. N.P. Singhaniya, Advocate for non-applicant No.2.

CORAM: SMT. VIBHA KANKANWADI & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 20.6.2024.

Present application has been filed under Section 482 of the Code of Criminal Procedure Code for quashing the F.I.R. and chargesheet in S.C.C. No.485/2022 pending before 5th Joint Civil Judge, Junior Division and J.M.F.C. Court No.5, Nagpur for the offence punishable under Sections 279, 427 and 506 of the Indian Penal Code.

2. Heard Mr. V.V. Bhangde, learned Advocate for the applicant, Mr. A.B. Badar, learned A.P.P. for non-applicant No.1/State and Mr. N.P. Singhaniya, learned Advocate for non-applicant No.2.

3. After taking us through the contents of the F.I.R. and the chargesheet, learned Advocate for the applicant submits that the F.I.R. does not reflect any rash or negligent act on the part of the applicant. In fact, there was a settlement between the applicant and non-applicant No.2. After the incident, the applicant had shown readiness to compensate non-applicant No.2, however, as it could not be finalized, it appears that the F.I.R. has been lodged belatedly. Even from the affidavit-in-reply of non-applicant No.2 it can be spelt out that she was expecting compensation. He further

points out that the ingredients of the F.I.R. and the chargesheet did not disclose commission of the offence under Sections 427 and 506 of the Indian Penal Code.

4. Learned A.P.P. as well as learned Advocate for non-applicant No.2 strongly opposed though non-applicant No.2 accepts that as the applicant had agreed to give the compensation in the form of medical expenses that would be borne as well as repairing charges of the vehicle, the report was not lodged, however, they say that, that is a ground for delay in lodging the F.I.R. They submit that the contents of the F.I.R. as well as the material collected by the prosecution definitely discloses the offence.

5. At the outset, we would say that the offence transpiring has to be looked into mainly by the trial Court and the initial stage to consider the same is at the time of taking cognizance and thereafter at the time of framing charge or taking plea and then after the evidence is led it has to be seen as to which offence is proved beyond reasonable doubt.

6. Here, in this proceedings, we are mainly concerned with *prima facie* scrutiny of the offence. The facts of the case show that the applicant was driving his Skoda car and was standing in the *chowk* waiting for the signal and he had given the right side indicator. Then it is stated by the informant that when she was taking her vehicle ahead the accused did not see the situation around and took the car on the wrong side thereby causing dash as a result of which the informant fell down and sustained injuries to her leg and also the vehicle got damaged. There is a spot-panchanama and the prosecution will have to prove the same. Whether the sole testimony of the informant can be believed or not would be the question at

the time of final hearing but from the contents it cannot be said that this is a fit case for quashing of the F.I.R. We reiterate that which sections are attracted will have to be decided by the trial Court but taking into consideration the fact that accident has taken place, the prosecution has to prove whether the accused was rash and negligent while driving his car.

7. No case is made out for exercise of the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

Application stands dismissed.

Fees of the learned Advocate appointed to represent non-applicant No.2 be quantified as per Rules.

(MRS.VRUSHALI V.JOSHI,J.)

(SMT. VIBHA KANKANWADI,J.)