



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

CRIMINAL APPLICATION (APL) NO.1565 OF 2024

Prakash Arjun Yeotkar

.vs.

State of Maharashtra, through PSO, PS Karanja, Distt. Washim and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr S. I. Gatte, Advocate for the applicant
Ms Soniya Thakur, APP for the respondent No.1/State

CORAM : G.A. SANAP J.
DATE : OCTOBER 21, 2024

Heard learned Advocate for the applicant and
learned APP for the state.

2. In the context of the controversy involved in
this application, I do not find it necessary to issue notice
to non-applicant No.2. Hence, by consent of learned
Advocate for the applicant and learned APP for the State,
the matter is taken up for final disposal.

3. In this application, challenge is to the order of
framing of charge/charge against the applicant by the
learned Judicial Magistrate First Class, Karanja, District
Washim. The principal grievance is that on 26.06.2024,
on filing of the charge-sheet, learned Magistrate took the
cognizance and passed the order of issuance of summons.
It is submitted that on the same day, the learned

Magistrate without granting an opportunity of hearing, before framing the charge as contemplated under the law, framed the charge against the applicant. Learned Advocate submitted that the learned Judge has denied the opportunity of making an application for his discharge under Section 239 of the Code of Criminal Procedure, 1973. It is submitted that this exercise of framing of charge on the date of taking cognizance was carried out in a hurried manner. It has caused prejudice to the applicant.

4. With the assistance of the learned Advocate for the parties, I have gone through the record and proceedings and particularly the roznama dated 26.06.2024. In my view, perusal of this roznama by itself would be sufficient to conclude that the learned Magistrate committed a patent illegality while framing the charge against the applicant. Learned Magistrate was required not only to grant an opportunity of hearing to the applicant/accused before framing the charge but also was required to record the said fact in the roznama or in a separate order, if any passed. The record is silent about the same. The charge framed, without granting an opportunity of hearing to the applicant, is illegal. The order, in my view, has therefore been vitiated. As such, the application is allowed.

5. The order of framing of charge/charge is quashed and set aside.

6. Learned Magistrate is directed to frame the charge afresh, after granting an opportunity of hearing to the applicant.

7. The criminal application stands **disposed of**, accordingly.

(G. A. SANAP, J)

Namrata