



Judgment

apl1586.23corrected

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

CRIMINAL APPLICATION [APL] No.1586 OF 2023

Vikas s/o Haribhau Mahatme,
Age 64 years, Occ : Medical
Practitioner, R/o. Central Excise
Colony, Ring Road, Chhatrapati
Square, Nagpur-440015.

..

APPLICANT

.. **VERSUS** ..

The State of Maharashtra,
through the Police Inspector,
Police Station, Sadar, Nagpur.

..

RESPONDENT

.....
Shri Varad Kilor, Advocate with Shri A.P. Bhuibhar, Advocate for
Applicant,
Shri A.B. Badar, Additional Public Prosecutor for Respondent-State.
.....

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

DATE : AUGUST 20, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

Heard. **Admit.**

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

3. This is an application seeking to quash the criminal prosecution bearing Regular Criminal Case No.5108/2021 pending in the file of the learned Chief Judicial Magistrate, Nagpur arising out of the first information report bearing Crime No.458/2020 registered with Police Station, Sadar, Nagpur, District-Nagpur for the offences punishable under Sections 143, 147, 149, 188, 269 and 270 of the Indian Penal Code, 1860, Sections 51 (a) and 51 (b) of the Disaster Management Act, 2005, Sections 3 and 4 of the Epidemic Diseases Act, 1897 and Sections 135, 140, 131 and 33 (u) of the Maharashtra Police Act, 1951

4. During the pandemic period, it is alleged that the applicant, who is a Member of Parliament, has participated in the

agitation of farmers against the State Government which occasioned to lodge the report against the applicant, who was Member of Parliament.

5. Learned counsel for the applicant seeks for quashing by placing reliance on the policy decision taken by the Government, Vide resolution dated 20.09.2022, followed by subsequent resolution dated 10.11.2022. By these resolutions, Government has taken a policy decision to withdraw the prosecution in the cases which falls in the requisite criteria provided that the charge-sheets were filed in respective cases till 30.06.2022.

6. The learned APP made a statement that the case of the applicant falls within the parameters as set out in the Government Resolution dated 20.09.2022. In addition, he submitted that the State is adopting the reply filed by the State in connected Criminal Application [APL} No.1558/2023. He also reiterated that in view of the policy decision, appropriate order of quashing may be passed.

Correction is
carried out vide
Court's order
dated 28th
August, 2024.

7. In the case at hand, after completion of investigation, the charge-sheet has been filed on 17.12.2021. It is brought to our notice that vide Government Resolution dated 10.11.2022, it has also been resolved for withdrawal of cases against the Member of Parliament and Member of the Legislative Assembly. As per the Government Resolution dated 20.09.2022, beside other criteria, the permission of this Court is required to withdraw prosecution against Member of Parliament and Member of the Legislative Assembly. In above scenario, the State by reply contended that the case of the applicant falls within the parameters set out in the Government Resolution and urged to allow the present application.

8. It is not in dispute that the applicant's case falls within the parameters set out in the Government Resolution dated 20.09.2022. Considering the nature of accusation and the policy decision taken by the Government, we see no difficulty in exercising our inherent jurisdiction.

9. In the circumstances, we proceed to pass the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) Regular Criminal Case No.5108/2021 pending in the file of the learned Chief Judicial Magistrate, Nagpur arising out of the first information report bearing Crime No.458/2020 registered with Police Station, Sadar, Nagpur, District-Nagpur for the offences punishable under Sections 143, 147, 149, 188, 269 and 270 of the Indian Penal Code, 1860, Sections 51 (a) and 51 (b) of the Disaster Management Act, 2005, Sections 3 and 4 of the Epidemic Diseases Act, 1897 and Sections 135, 140, 131 and 33 (u) of the Maharashtra Police Act, 1951, is hereby quashed and set aside.

JUDGE

JUDGE

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