



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

CRIMINAL REVISION APPLICATION NO. 74 OF 2024

Mr. Sheikh Mujaffar S/o Sheikh Rashid,
Age- 54 Years, Occupation- Service.
R/o Fubgaon. Tq. Nandgaon Khandeshwar
and District. Amravati.

... APPLICANT

// VERSUS //

1. **State of Maharashtra,**
Through Police Station Officer,
Police Station Mangru1 Chawala,
Amravati.

2. **Anticorruption Bureau Amravati**
Through its Police Inspector,
Amravati, District – Amravati.

... RESPONDENTS

Mr Rajnish Vyas, Advocate for applicant.
Ms Mukta Kavimandan, APP for respondents/State.

CORAM : G. A. SANAP, J.
DATE : 02.07.2024

ORAL JUDGMENT :

1. Heard.

2. **Rule.** Rule made returnable forthwith. Taken up
for final disposal with the consent of learned Advocates for the
parties.

3. The applicant, who is an accused No.1 in the Special Case No.259/2019 pending on the file of District Judge-3 Amravati and Additional Sessions Judge, Amravati, has challenged the order of framing of charge and ultimately the charge framed against him and co accused No.2.

4. It is stated that before framing of the charge, hearing as contemplated under Section 227 of the Cr.P.C. was not granted. In support of this contention, he has placed on record the roznama. The copy of the charge is also on record.

5. I have gone through the roznama as well as the charge framed by the learned Judge. Roznama as well as the charge framed is conspicuously silent about the grant of an opportunity of hearing to the accused before framing the charge.

6. Learned APP for the respondents/State is not able to point out any material to show that the hearing as contemplated under Section 227 of the Cr.P.C. was granted to the accused.

7. In my view, on account of this, a fundamental defect has been crept in. The accused has come forward to remove the defect in the charge. In my view, therefore, the application deserves to be allowed. Hence I pass the following order:-

ORDER

i) The charge framed against the accused Nos.1 and 2 in Special Case No.259/2019 at Exh.14 by District Judge-3 Amravati and Additional Sessions Judge, Amravati dated 21.02.2023 is quashed and set aside.

ii) Learned Judge is directed to frame a charge against the accused persons by complying the provisions of Section 227 of Cr.P.C.

iii) The accused Nos.1 and 2 shall remain present before the learned Judge on 11.07.2024 at 11.00 a.m.

iv) The accused Nos.1 and 2 shall extend fullest cooperation to the learned Judge.

8. Criminal Revision Application stands disposed of.

9. Rule made absolute in the above terms.

(G. A. SANAP, J.)