



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

CRIMINAL WRIT PETITION NO.187 OF 2024

Sau. Rajashtri w/o Rajendra Pachgade and ors.

(Vs.)

Pramod s/o Ambadasji Pachgde 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. M.R. Joharapurkar, Advocate for petitioners.

Mr. D.S. Joshi, Advocate for respondent Nos.1 and 2.

CORAM : G.A. SANAP, J.

DATE : 23.09.2024

Heard learned Advocates for the parties.

Perused the record and proceedings.

2. Perusal of the record shows that learned Magistrate has not taken into consideration the fundamental facts pleaded in the complaint. Similarly, learned Magistrate has not taken into consideration the report submitted by the Police on inquiry under Section 202 of the Code of Criminal Procedure.

3. It is to be noted that the process cannot be

issued mechanically. The criminal prosecution is a very serious matter. Perusal of the complaint would show that it is silent on so many aspects which have not been dealt with by the learned Magistrate. The learned Magistrate was required to be very careful when civil dispute was pending between the parties in respect of the same subject matter.

4. It needs to be stated that the learned Magistrate was required to conduct proper inquiry before putting criminal law into motion in this manner. It is settled legal position that civil dispute may have traces of criminal offence. The Court has to examine the material in its entirety. The Court shall take care that totally civil dispute cannot be given colour of criminal offence.

5. In the facts and circumstances, the Criminal Writ Petition is allowed.

6. The impugned order dated 21.03.2023 passed in Regular Criminal Case No.133/2020 by

the learned Judicial Magistrate First Class (JMFC), Karanja (Lad) is set aside. The matter is remitted back to learned Magistrate.

7. Learned Magistrate shall conduct fresh inquiry and then pass an appropriate order in accordance with law.

8. Criminal Writ Petition stands disposed of.

JUDGE