



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

CRIMINAL WRIT PETITION NO.224 OF 2024

Mukesh Natwarlal Patel and ors

(Vs.)

Vikas s/o Gajanan Tawale 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. R.R. Deo, Advocate for petitioners.

Mr. K.S. Motwani, Advocate for respondent No.1.

Mr. P.P. Pendke, APP for respondent No.2/State.

CORAM : G.A. SANAP, J.

DATE : 23.09.2024

Heard learned Advocates for the parties.

Perused the record and proceedings.

2. It is apparent on the face of the record that proceeding between the parties has a chequered history. The order impugned in this petition is passed in 3rd fresh complaint on the same set of facts. First complaint filed by respondent No.1 was quashed and set aside by this Court vide order dated 10.04.2018. The second complaint was filed on 06.08.2018. The said complaint was allowed to be

withdrawn pursuant to the order passed by this Court dated 05.04.2023, with liberty to take recourse to the available remedy under law for redressal of his grievance. The complainant-respondent No.1 has pleaded that liberty was granted to him to file fresh complaint.

3. It is to be noted that in view of the repetitive complaints filed on same set of facts, learned Magistrate was required to consider the same. Learned Magistrate was required to take into consideration the issue of maintainability or otherwise of the fresh complaint on same set of facts. Learned Magistrate was required to bear in mind the chequered history of litigation, which was partly spelled out in the complaint.

4. In view of this, the order of issuance of process cannot be sustained. The order deserves to be quashed and set aside.

5. Accordingly, the order dated 09.10.2023

passed below Exh.1 by the learned Judicial Magistrate First Class, Court No.1, Bhandara in Summary Criminal Complaint No.1217/2023 (Annexure "L") is hereby quashed and set aside

6. The matter is remitted back to the learned Magistrate.

7. Learned Magistrate on perusal of the complaint and the chequered history of the litigation shall pass an appropriate order in accordance with law.

8. Criminal Writ Petition stands disposed of in the above terms.

JUDGE