



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

CRIMINAL APPLICATION (APL) NO. 1024 OF 2024

Swapnil Rameshkumar Kale,
Age : 30 years, Occ.: Education,
R/o. Ward No.1, Kasakheta, Sirpur Jain,
Taluka : Malegaon, Dist. Washim.

... **APPLICANT**

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Shirpur, District : Washim.

2. Rajendra Shriram Wankhede,
Aged about 53 years,
Occ.: P.S.O., Police Station Shirpur,
Washim, Dist. Washim.

...**NON-APPLICANTS**

Mr. S. V. Sirpurkar, Advocate for Applicant.
Mr. N. H. Joshi, A.P.P. for Non-applicant/State.

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

DATED :- 03.09.2024

ORAL JUDGMENT (PER : VINAY JOSHI, J.):-

1. Heard.

2. **ADMIT.** The matter is taken up for final disposal by consent of
learned Counsel appearing for the parties.

3. This is an application seeking to quash charge-sheet No.40/2021
arising out of First Information Report vide Crime No.81/2023 registered

with Police Station Shirpur, District Washim for the offences punishable under Sections 143, 147 and 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951.

4. At the instance of report lodged by the police personnel, the crime has been registered. It is the prosecution case that on 19.03.2023, the information has been received that a group of people belonging to “Shwetamber Jain” Community took out a march on public road. Those people by giving loud slogans were proceeding from the side of Nikalan Niketan. It is stated that some people who are followers of “Digamber Jain” group had argument with the march. There was a commotion in two groups in which stones were pelted. On account of said incident, the informant police lodged a report stating that four named persons of Shwetamber group and 14 named persons of Digamber group had participated in the incident. The applicant is named as one of the participant belonging to Digamber group.

5. Learned Counsel for the applicant would submit that besides omnibus reference of several names in the First Information Report, the entire charge-sheet does not bear even reference about the presence of the applicant. It is submitted that the first informant has also not stated the specific act of either of the persons apart from the applicant. Learned Counsel for the applicant would submit that the applicant is selected for the

management post of Bruhan Mumbai Municipal Council Education Department. He has produced the documents to that effect and submitted that due to casual reference in the First Information Report, the applicant's entire career would be at stake.

6. With the assistance of both sides, we have gone through the entire police papers. The police have recorded statements of several nearby people like vegetable vendors, agriculturist, labours and others who were present on the spot. The statement of some police persons have also been recorded. It reveals that all of them have stated about the quarrel between two groups, pelting of shoes, stones but they did not specify name of either of the participants. Thus, the material collected during the course of the investigation does not make out even a presence of the applicant on the spot.

7. Coming to the First Information Report, it only bears name of several participants including the applicant. The informant has never described the role of the applicant or even his presence on the spot. The tenor of the First Information Report indicates that while concluding the narration, the informant stated names of eighteen persons to be participated in the quarrel. Even the entire material has taken as its stand, in absence of specific role or corroborative material, the chances of conviction are bleak. On mere omnibus reference about the presence would

not further the case of prosecution. In the circumstances, the continuation of prosecution against the applicant amounts to abuse of the process of the Court.

8. In view of the above, the application is allowed. We hereby quash and set aside the charge-sheet No.40/2021 arising out of First Information Report vide Crime No.81/2023 registered with Police Station Shirpur, District Washim for the offences punishable under Sections 143, 147 and 149 of the Indian Penal Code and Section 135 of the Maharashtra Police Act, 1951 against the applicant only.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)