



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

CRIMINAL APPLICATION (APL) NO.961 OF 2024

MR. LALIT SHANKARRAO KAMDE

VS

THE STATE OF MAHARASHTRA THR. PSO, PS, AJNI DIST. NAGPUR AND
 ANOTHER

*Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders.*

Court's or Judge's order

Mr. R.R. Vyas, Advocate for the applicant/s
 Mr. A.G. Mate, APP for the non-applicant/State
 Ms M.M. Ghatode, Advocate for the non-applicant No.2

CORAM : ANIL S. KILOR, J.

DATE : 3rd MARCH, 2025

1. The applicant, in the present application, takes exception to the order, passed by Judicial Magistrate First Class, Corporation Court No.2, Nagpur, below Exh.1 dated 23.04.2024, issuing process against the applicant under Section 204 of the CrPC, for the offences punishable under Section 294, 448, 451, 504, 506 of the IPC.

2. The learned counsel for the applicant takes this Court to the judgment dated 17.07.2023, of this Court passed in earlier round of litigation i.e. in Criminal Application (APL) No.898 of 2022, in which, this Court remanded the matter back with direction to the learned Magistrate to conduct an inquiry in terms of Section 202 of the CrPC as well as on the basis of the material placed on record and consider the matter afresh for taking cognizance and issuing process.

3. It is submitted that in view of this judgment, the impugned order came to be passed but ignored the above referred directions. While considering the matter afresh, it appears that a pen drive, submitted by the son of the complainant, containing a video recording of the alleged incidence, has not been considered, though it was on record.

4. On the other hand, the learned counsel for the complainant is not disputing about the pen drive, containing video recording made by the son of the complainant of the alleged incidence, which is available on record of the learned Magistrate. On a specific query put to the learned counsel for the complainant as well as to the learned APP, to show the observations, if any, made by the learned Magistrate as regards such video recording, both the counsel fairly state that there is no such finding recorded by the learned Magistrate in the impugned order.

5. In the above referred backdrop, it is important to note that in the earlier round before this Court, it was categorically pointed out and a reference made in paragraph 8 of video recording of incident in the mobile phone.

6. It is pertinent to note that while remanding the matter, this Court directed the learned Magistrate to conduct an inquiry in terms of Section 202 of the CrPC, on the basis of the material placed on record and on the basis

of the inquiry.

7. Thus, it is evident that this Court, while remanding the matter also directed to consider the material placed on record. According to me, the material placed on record includes pen drive, which was produced by the complainant on record.

8. In the circumstances, only option left with this Court is, to remand the matter again back to the learned Magistrate to consider the matter afresh, in view of the observations made herein above. Accordingly, I pass the following order:

(i) The application is **partly allowed**.

(ii) The matter is remanded back to the learned Judicial Magistrate First Class, Corporation Court No.2, Nagpur, to consider the same afresh, in view of the observations made in the judgment of this Court, dated 17.07.2023 in Criminal Application (APL) No.898 of 2022 as well as the observations made in the present matter.

Accordingly, the criminal application is **disposed of** in the above terms.

(ANIL S. KILOR, J.)