



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

CRIMINAL WRIT PETITION NO. 227 OF 2024

1. Dilip Balkrishna Admane,
Aged 70 years, Occ. Private
2. Prashant Dilip Admane,
Aged 45 years, Occ. Business
3. Kamal Dilip Admane,
Aged 69 years, Occ. Housewife,

All the petitioners R/o. Buliding No. A1/2,
Flat No. 3B, 3rd Floor, Nirmal Nagri,
Near Shitala Mata Mandir, Umred Road,
Nagpur. Tah. & Dist. Nagpur.

... **PETITIONERS**
(Original Accused)

// VERSUS //

1. State of Maharashtra through
Police Station Officer,
Police Station Nandanwan,
Tah. & Dist. Nagpur.
2. Rupal Ganesh Gupta,
Aged 52 years, Occ. Housewife,
R/o. Plot No. 27, Shrikrushna Nagar,
Wathoda Layout, Nagpur
Tah. & Dist. Nagpur.
(Original Complainant)

... **RESPONDENTS**

Shri Jasprit Singh Chilotra a/w. Ms. Pooja K. Adnani, Advocate for
petitioners.
Ms. P. T. Joshi, Advocate for respondent no. 1/State.
Shri P. K. Mishra, Advocate for respondent no. 2.

CORAM :- M. W. CHANDWANI, J.

DATED :- 01.04.2025

ORAL JUDGMENT :-

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. It is not necessary to go into the matrix of the case. Suffice to say that respondent no. 2 has filed an application before the learned Chief Judicial Magistrate, Nagpur (for short, “the CJM”) against the petitioners alleging commission of offences punishable under Sections 406, 420, 466, 468, 471 r/w. 34 of the Indian Penal Code (IPC). The learned CJM deemed it appropriate to send the application to Police Station, Nandanwan for conducting enquiry under Section 202 of the Code of Criminal Procedure (CrPC). Police Station Nandanwan submitted a report to the learned CJM with a conclusion that no offence has been made out. However, by the impugned order the learned CJM after considering the allegations made in the application issued process against the petitioners for the offences punishable under the aforesaid Sections of the IPC. Feeling aggrieved by the issuance of process, the present proceeding has been filed under Article 226, 227 of the Constitution of India r/w. Section 482 of the CrPC.

4. Amongst others, one of the grounds raised by the learned counsel for the petitioners is that the report submitted by the Police has

not been considered by the learned CJM while issuing the process. According to him, the learned CJM was oblivious of the fact that the report has been called from Police Station, Nandanwan under Section 202 of the CrPc. and therefore, without considering the said report, the impugned order came to be passed, which does not sustain in the eyes of law. Hence, he seeks quashing of the impugned order of issuance of process against the petitioners.

5. *Per contra*, Shri P. K. Mishra, learned counsel appearing on behalf of respondent no. 2 vehemently submitted that the report of Police Station, Nandanwan was already on record and therefore, it cannot be said that the report filed by the Police has not been considered by the learned CJM while issuing the process. He supported the order of issuance of process by the learned CJM and seeks dismissal of the petition.

6. Having heard the learned counsel for the respective parties and having gone through the impugned order and the report submitted by Police Station, Nandanwan, it transpires that after passing of the order for enquiry under Section 202 of the CrPC, the report was submitted by Police Station, Nandanwan wherein, in the concluding paras it has been observed that there is no evidence to show that the petitioners have committed the aforesaid offence. Also, the impugned

order passed by the learned CJM does not reflect that she has gone through the report filed by Police Station, Nandanwan. However, there is no observation which mentions that the report filed by the Police has been overruled; rather, there is no whisper of the Police report in the impugned order at all. Hence, while issuing the process against the petitioner, the report filed by Police Station, Nandanwan has not been considered by the learned CJM which she ought to have.

7. Therefore, the impugned order of issuance of process against the petitioners suffered from infirmity and is required to be set aside with a direction to the learned CJM to consider the report filed by Police Station, Nandanwan alongwith other material available on record and pass an appropriate reasoned order. Needless to mention here that the learned CJM may not get influenced by the observations made in this order.

8. Accordingly, the Writ Petition is allowed in the above said terms. Rule made absolute accordingly.

(M. W. CHANDWANI, J.)