

MHRG030000852020



R.C.C. No. 82/2020

The State

Vs.

Sunil Janardan Pednekar and Ors.

CNR No. MHRG030000852020

:: ORDER BELOW EXH. 76 ::

Perused application and say given by the accused below Exh. 69 (wrong Exh. number given). Heard advocate of the accused. The prosecution is absent.

02. The informant Mayur Gharat has filed the present application under his signature praying that a complaint case bearing No. 24/2010 (New number 81/2020) be clubbed or merged in the present case as both the cases are arising out of same transactions. He further prayed that these cases, after merging, be committed to the Court of Sessions.

03. Without going into the factual aspects, certain legal points arises. Firstly, the informant has filed the present application under his signature which means he has filed the present application in his personal capacity. This is a case instituted on police report and it is a public prosecutor or assistant public prosecutor can prosecute the case on behalf of the state. Individual person like informant has no authority to submit application in his personal capacity without obtaining

permission of a Court under section 302 of the Code of Criminal Procedure ('the Code' in short). In this case, it is not brought to the notice of this Court that the informant Mayur Gharat has obtained permission of the Court under section 302 of the Code to assist the prosecution and thereby submitting the present application. So the informant Mayur Gharat has no *Locus Standi* to submit the application in his individual capacity.

04. The informant is praying to merge the complaint case with this case. The informant has not shown any provision of merging complaint case into a case instituted on police report. As per section 210 of the Code a case instituted on police report and a complaint case shall be tried together. Trying together does not mean that one of the case should be merged into another. Both the proceedings, as per the said section, shall be conducted simultaneously without merging them.

05. Another important point is that in this case cognizance of offence punishable under section 307 has not been taken and in complaint case the informant is praying to take cognizance of the offence punishable under the said section. Some of the accused in complaint case have not been arraigned as accused in this case. Therefore, as per section 210(3) of the Code if any such contingencies arises, it is necessary to proceed with the inquiry or trial which was stayed, i.e. the complaint case, in accordance with the provision of the Code. Therefore, the complaint case shall be proceeded with as per the provisions of the Code without clubbing or merging with this case. Looking

to these legal aspects the application deserves to be rejected.
Accordingly, I pass the following order.

:: ORDER ::

The application is rejected.

Alibag.
Date : **08/08/2022**

(**S.W. Ugale**)
Chief Judicial Magistrate,
Raigad Alibag