

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CRIMINAL APPLICATION NO. 10682 of 2021**

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ALIASGAR YUSUFBHAI PRESSWALA
Versus
STATE OF GUJARAT

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Appearance:

MR. RAHUL R DHOLAKIA(6765) for the Applicant(s) No. 1
for the Respondent(s) No. 2
MS SS PATHAK APP (2) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE ILESH J. VORA

Date : 27/10/2021

ORAL ORDER

1. Heard Mr. Yogesh Lakhani, learned Senior advocate assisted by Mr. RR Dholakia, learned advocate for the petitioner.
2. By way of present petition under Articles 226 and 227 read with Section 482 of the Code of Criminal Procedure, the petitioner seeks to challenge the impugned order dated 28.9.2021 passed by the learned 6th Additional Chief Judicial Magistrate, Navsari, whereby, "C" summary report submitted by the investigating agency was rejected and Court has issued process against 7 persons including present petitioner.
3. The present petitioner and other 6 persons were arraigned as accused on the basis of suspicious in the alleged FIR registered with Navsari Rural Police Station, Navsari dated 23.1.2020 for the offences punishable under Sections 302, 120B, 201 of IPC and Section 25(1)(B) (A) of the Arms Act.

4. During the investigation, it was revealed that 3 other persons, not named in the FIR, were the actual perpetrators of the alleged offence and therefore, chargesheet came to be filed by the Investigating Agency against 3 other persons.

5. The learned Sessions Court framed the charge against the chargesheeted 3 accused persons and during the course of proceedings, the Court has recorded the evidence of witnesses. Thereafter the investigating agency filed "C" Summary report against other 6 persons, whose names being disclosed on the basis of the suspicious. The learned trial Court issued notice to the first informant and after hearing, vide order dated 28.9.2021 rejected the "C" summary report and issue process for the alleged offences against the petitioner and other co-accused. Aggrieved by impugned order, the petitioner is before this Court by filing present petition.

6. This Court has perused the material placed on record and impugned order. It is required to be noted that the first informant has categorically stated before the trial Court that he has no objection against "C" summary filed by the investigating agency and has also not raised any grievance against the investigation carried out by the agency during the course of recording of his deposition.

7. Thus, matter deserves consideration. Let notice be issued to the respondents returnable on 01.03.2022. Learned APP waives service of notice on behalf of respondent State. In the meantime and till the returnable date, interim relief in term of para-7(D) is granted qua present petitioner only. Direct service permitted.

(ILESH J. VORA,J)

P.S. JOSHI