



Patil-SR

901-2023.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.901 OF 2023

Nitin Manik Thopte & Ors.	...Applicants
V/s.	
The State of Maharashtra	...Respondent

Mr. Rahul Shelke and Mr. Sarah Momin for the Applicants.
Ms. M. H. Mhatre, APP for the Respondent-State.

**CORAM : A.S. GADKARI &
SHARMILA U. DESHMUKH, JJ.**

DATE : 9th October, 2023.

P.C. :

1. Leave to amend to implead the first informant, Manoj Gaikwad as Respondent no.2. Amendment be carried out forthwith and in any event during the course of day.

1.1. After the amendment is carried out, issue notice to the newly added Respondent no.2 returnable on 31st October 2023.

1.2. Hamdust permitted.

2. Record indicates that, the present crime is registered in pursuance of Order dated 27th September 2022 passed by the J.M.F.C., Saswad in Criminal M.A. No. 228 of 2021 filed by Respondent No.2.

The facts mentioned in the First Information Report are the reproduction of contents of complaint filed by Respondent No.2. We are of the prima facie view that, the offence under section 307 read with 120B of the IPC is not made out and at the most an offence under section 115 read with 307 of the IPC can be discerned from the contents of complaint. It also appears to us that, Order dated 27th September 2022 passed by J.M.F.C. Saswad is erroneous to that extent.

3. In view of the above, till the returnable date, investigation of the crime to continue, however the police shall not file charge-sheet without leave of this Court.

(SHARMILA U. DESHMUKH, J.)

(A.S. GADKARI, J.)