

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

Criminal Writ Petition (WP) No. 204/2022

Seema w/o Sachhidanand Kale and ors.

..VS..

The State of Maharashtra and anr.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri P.R. Agrawal, Advocate for the petitioners
Shri Neeraj Patil, APP for respondent no. 1 /State
Shri A.S. Dhore, Advocate for respondent no. 2

CORAM : A. S. CHANDURKAR AND SMT. M.S. JAWALKAR, J.J.

DATED : 30/03/2022

The order dated 07.03.2022 passed by the learned Judicial Magistrate First Class, Dhamangaon Railway directing registration and investigation of the offence as per Section 156(3) of the Code of Criminal Procedure, 1973 is under challenge.

It is submitted by the learned Counsel for the petitioners that initially Misc. Criminal Application No. 179/2021 was filed by the respondent no. 2 making similar prayer for registration of the offences as per Section 156(3) of the Code of Criminal Procedure, 1973. By order dated 28.10.2021 this application was rejected by observing that there was no documentary material on record to support the application. Thereafter the respondent no. 2 again on 05.01.2022 filed a fresh application being Misc. Criminal Application No. 9/2022. The learned Magistrate on 07.03.2022 has allowed that criminal application. Thereafter, the petitioners had filed Revision Application No. 24/2022 before the Sessions Court, Amravati. On 11.03.2022 the learned Additional Sessions Judge, Amravati *prima facie* observed that it was not permissible for the

learned Magistrate to have reviewed its own earlier order especially when the earlier proceedings were not rejected on technical ground. Therefore the order dated 07.03.2022 came to be stayed. In the meanwhile, as the First Information Report was registered the respondent no. 2 filed a pursis as a result of which revision application was disposed of as infructuous.

It is in this backdrop that the order dated 07.03.2022 is under challenge. Issue notice to the respondents, returnable on **12.04.2022**. Shri N.R. Patil, learned Additional Public Prosecutor waives service of notice for respondent no. 1 and Shri A.S. Dhore, learned Counsel waives service of notice for the respondent no. 2.

Prima facie, in view of the order dated 28.10.2021 rejecting the application filed under Section 156(3) of the Code and the subsequent order dated 07.03.2022 allowing the similar application that was rejected on 28.10.2021 coupled with the observations made by the learned Additional Sessions Judge in the order dated 11.03.2022, it is directed that no coercive steps be taken against the petitioners till the returnable date.

In the meanwhile, the petitioners to remove office objections.

JUDGE

JUDGE