

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

**CRIMINAL APPLICATION (APL) NO.1355 OF 2021**

(Nawab Malik Mohammad Islam Malik Vs. Sanjay Shankarrao Wankhede and another)

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*Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.*

*Court's or Judge's orders.*

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Mr. J. B. Gandhi, Advocate for Applicant.

**CORAM: ROHIT B. DEO, J.**

**DATE: 17<sup>th</sup> DECEMBER, 2021.**

The applicant Mr. Nawab Malik is assailing the order of issuance of notice dated 04.12.2021 rendered by the Additional Sessions Judge, Washim on an application preferred by respondent 1 Mr. Sanjay Wankhede purportedly under Section 156 (3) of the Criminal Procedure Code, 1973 (Code).

2. The prayer clause of the application under Section 156 (3), is that the Washim Police Station be directed to investigate into the complaint dated 06.11.2021 lodged by Mr. Sanjay Wankhede against Mr. Nawab Malik alleging commission of offence punishable under Section 3(1)(q)(r) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The copy of the application which is placed on record does not indicate that the application is supported by an affidavit. The direction to investigation is sought against the Washim Police Station. However, the only non-applicant who is arraigned, is Mr. Nawab Malik who, *prima facie*, was not required to be

noticed or heard since at that stage the proposed accused or alleged accused has no right of hearing.

3. At this stage, it is not necessary to make an elaborate reference to the allegations in the application preferred by Mr. Sanjay Wankhede. Broadly, the grievance is that Mr. Sanjay Wankhede is related to Mr. Samir Wankhede and is a member of the Scheduled Caste. Mr. Sanjay Wankhede contends that as the Zonal Director, Narcotics Control Bureau (NCB), Mumbai, Mr. Samir Wankhede initiated action against certain celebrities and, it is thereafter that Mr. Nawab Malik has indulged in levelling false accusations against Mr. Samir Wankhede, in Press Conferences and otherwise in public domain. Mr. Sanjay Wankhede alleges that the allegation levelled by Mr. Nawab Malik, is that Mr. Samir Wankhede is Muslim by birth and that he procured a false caste certificate to secure employment. Mr. Sanjay Wankhede alleges that the Wankhede family is targeted by Mr. Nawab Malik, intentionally and deliberately, since Mr. Nawab Malik was enraged that Mr. Samir Wankhede, a Scheduled Caste Officer arrested his son-in-law.

4. Mr. Gandhi who appears on behalf of Mr. Nawab Malik submits that the order of issuance of notice is grossly illegal. Mr. Gandhi would submit that apart from the fact that the application under Section 156 (3) of the Code does not make out a case for issuance of direction to investigate, the Court at Washim has no territorial jurisdiction to

entertain the application. Mr. Gandhi then submits that while the Station In-charge, Washim Police Station is not a party, Mr. Nawab Malik is unnecessarily impleaded as the sole non-applicant. Mr. Gandhi would submit that the proceedings are an abuse of the process of law and the only intent is to harass Mr. Nawab Malik, who is a Cabinet Minister, and in the process get cheap publicity. Mr. Gandhi would emphasize that the application under Section 156 (3) of the Code is not supported by an affidavit.

5. An arguable case is made out.

6. Issue notice for final disposal, returnable on 14.01.2022.

7. Mr. N. S. Rao, the learned Additional Public Prosecutor waives service for Non-Applicant 2/State.

8. Till the returnable date there shall be *ad-interim* relief in terms of prayer clause (2).

**JUDGE**