
(1984) 04 BOM CK 0041

In the Bombay High Court

Case No : Criminal Application No's. 413 of 1984 and 1255 of 1983

Arun Vasant Agashe

APPELLANT

Vs

State of Maharashtra and Another

RESPONDENT

Date of Decision : 16-04-1984

Acts Referred:

Bombay Police Act, 1951 — Section 124

Citation : (1984) 2 BomCR 684

Hon'ble Judges : S.P. Kurdukar, J

Bench : Single Bench

Advocate : R.S. Bhonsale and V.R. Bhonsale, for the Appellant; S.S. Phanse, Public Prosecutor, for the Respondent

Judgement

S.P. Kurdukar, J.—This criminal application u/s 482 of the Criminal Procedure Code is filed by the accused praying for quashing the proceedings in C.R. No. 20 of 1982, C.R. No. 20 of 1982 was filed by the V.T. Railway Police Station against the accused and the same is pending before the learned Metropolitan Magistrate, 35th Court, V.T. Bombay. The charge sheet is filed u/s 124 of the Bombay Police Act.

2. It is common ground that the Investigating Officer has not obtained the sanction from the Magistrate for investigation Shri Bhonsale, learned Counsel appearing in support of this petition strongly relied upon my judgment in Avinash Madhukar Mukhedkar Vs. The State of Maharashtra, In that matter I have taken a view that in connection with non-cognizable offences punishable u/s 124 of the Bombay Police Act, no investigation could be carried out without obtaining the sanction from the Magistrate. In view of the judgment in Avinash's case, I have no other option but to uphold the contention of Shri Bhonsale and quash the proceedings pending before the trial Magistrate. The petition must accordingly succeed.

3. The proceedings pending before the learned Metropolitan Magistrate 35th Court, V.T. Bombay arising out of C.R. No. 20 of 1982 are quashed and set aside.

The amount of Rs. 2,315/- which was taken from the possession of the petitioner-accused be returned to him. The order of return of the amount of Rs. 2,315/- is stayed upto 1st May, 1984. Rule is accordingly make absolute.