

Someshwar S/O. Bhashkar Chichghare And ... vs The State Of Maharashtra Thr. P.S.O., ... on 20 September, 2021

Author: Amit B. Borkar

Bench: V.M. Deshpande, Amit B. Borkar

Judgment

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apl148.

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

CRIMINAL APPLICATION (APL) NO. 148/2019

- 1] Someshwar S/o Bhashkar Chichghare,
Aged about 31 years, Occ. Business,
 - 2] Prakash S/o Rishi Meshram,
Aged about 31 years, Occ. Business,
- Both R/o. P.O., Thanegaon, Armori,
District Gadchiroli

.... APPLICANT(S)

// VERSUS //

State of Maharashtra,
Through Police Station Officer,
Police Station Gadchiroli,
Tah. & Dist. Chandrapur

.... NON-APPLICANT(S)

Shri R.M. Tahaliyani, Advocate for the applicant(s)
Shri T.A. Mirza, APP for the non-applicant/State

CORAM : V.M. DESHPANDE & AMIT B. BORKAR, JJ.
SEPTEMBER 20, 2021

JUDGMENT :

(PER:- AMIT B. BORKAR, J.) 1] By this application under Section 482 of the Code of Criminal Procedure, the applicants have prayed that F.I.R. No. 550/2018 ANSARI Judgment 2 apl148.19.odt

registered with the non-applicant - Police Station for the offences punishable under Sections 273 & 328 of the Indian Penal Code & Sections 3(1)(zz)(i)(v), 30(2)(a), 59, 26(1), 27(2)(iv) & 27(3)(e) of the Food Safety And Standards Act, 2006 (for short "the Act of 2006") be quashed. The main thrust of challenge is that the allegations in the first information report do not spell out the offences under the provisions of the Act of 2006 and Rules framed under it and consequently offences under the Indian Penal Code are not made out.

2] On 03/04/2019, this Court issued notice to the non- applicant. On 11/07/2019, this Court granted ad-interim order in favour of the applicants directing that the investigation may proceed but, charge- sheet shall not be filed.

3] Learned advocate for the applicants submitted that the Division Bench of this Court at Aurangabad in Criminal Writ Petition No. 1027/2015 has adjudicated similar issue in group of the matters along with Writ Petition No. 1027/2015. It is submitted that the issue involved in the present application is covered by the said judgment. It is also submitted by learned advocate for the applicants that from the ANSARI Judgment 3 apl148.19.odt averments in the first information report, ingredients of the offences alleged against the applicants are not fulfilled. 4] The non-applicant has filed reply and submitted that there is sufficient material available against the applicants showing their involvement in the crime. Learned APP invited our attention to the judgment of the Hon'ble Supreme Court in the case of State of Maharashtra Vs. Sayyed Hassan Sayyed Subhan and ors. [2018 AIR (SC) 5348] and submitted that it is open for the Food Safety Officer to independently file complaint before the Competent Court for the offence under the provisions of the Act of 2006. Learned APP further submitted that the investigation in the matter is completed and charge-sheet is ready. He also invited attention of this Court to the order passed by the Division Bench of this Court in LD-VC-CRI-APPLICATION (APPA) No. 452/2020 (Ritesh Rajkumar Toshniwal Vs. State of Maharashtra) and submitted that similar order be passed in the present application as facts of this application are similar.

5] We have scrutinized the contents of the first information report and other material on record and we are of the opinion that in view ANSARI Judgment 4 apl148.19.odt of the judgment of the Division Bench in LD-VC-CRI-APPLICATION (APPA) No. 452/2020, we need to pass the similar order. In the present matter also, the investigation is completed and charge-sheet is ready. Therefore, considering the aforesaid facts, we are not delving into the merits of the matter at this stage. In our view, the interests of justice would be sub-served by passing following order :-

(i) The Investigating Agency shall file the charge-sheet in the matter.

(ii) The Food Safety Officer will be at liberty to file complaint under the provisions of the Food Safety And Standards Act, 2006.

(iii) As we have not delved into the issues raised by the applicants, it will be open to the applicants to avail appropriate remedy for redressal of their grievance, as per law, after filing of the charge-sheet.

The criminal application is disposed in the above terms. Pending application(s), if any, stand(s) disposed of.

(JUDGE)

(JUDGE)

ANSARI