

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 1900 OF 2024

Ahmed Akbar Momin & Anr. Petitioners
Vs.
The State of Maharashtra & Anr. Respondents

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Mr. Nagesh Y Chavan a/w Ms. Ankita Chindage for Petitioners.
Mr. Avinash A. Naik, APP for Respondent-State.

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**CORAM: SANDESH D. PATIL, J.
DATED: 22nd JUNE 2026.**

P. C. :

1. Heard the learned counsel for the parties.
2. The proceedings have been initiated by the officer of the Town Planning Department, Tasgaon Municipal Council, under Sections 52 and 53 of the Maharashtra Regional Town Planning Act, 1966 (for short "*MRTP Act*").
3. The contention is that the construction carried out on the property in question is illegal, having been undertaken without obtaining permission under the provisions of the MRTP Act.

4. Mr. Chavan, learned counsel for the Petitioner, vehemently argued that a preliminary inquiry ought to have been conducted and that such a complaint ought not to have been registered. He submits that, *prima facie*, commission of a cognizable offence is not made out. He further submits that Resolution No. 174 dated 27th June 2003 passed by the Tasgaon Municipal Council provides that an area admeasuring 0 H. 22 R. from Revised Survey No. 225/2/B and an area admeasuring 1 H. 69 R. from Revised Survey No. 226/2 has been reserved for Fire Brigade and extension of playground, and that the said resolution has been quashed by the Collector, Sangli. In these circumstances, it is submitted that no offence is made out.

5. Mr. Naik, learned APP, on the other hand, submits that all these aspects can be considered at the stage of trial and not at this nascent stage.

6. I have heard the learned counsel appearing for the parties.

7. The allegation is that illegal construction has been carried out. The provisions of Sections 52 and 53 of the MRTP Act empower the concerned officers to lodge FIRs and initiate criminal complaints. At this stage, it is too premature to hold that the FIR has been lodged mala

fide. It cannot be said that no offence is made out; all these issues are questions of trial which can be adjudicated only after a full-fledged trial.

8. Hence, at this stage, the FIR in question cannot be quashed. For these reasons, no case is made out for quashing of the FIR. Hence, the following order:

::ORDER::

- a) The Petition is dismissed.
- b) All contentions of the parties are kept open at the trial.

(SANDESH D. PATIL, J.)

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