

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 463 OF 2015
WITH
CRIMINAL WRIT PETITION NO. 462 OF 2015

M/s. Maharashtra Border Check
Post Network Ltd. and Ors.

....Petitioners.

Versus

The State of Maharashtra & Anr. **....Respondents.**

Mr. Jaideep Thakkar and Mr. N.V. Gaware, Advocates for
petitioners.

Mr. B.L Dhas, APP for State.

**CORAM : T.V. NALAWADE &
SMT. I.K. JAIN, JJ.**

DATED : 23rd April, 2015.

ORDER :

1. Both the petitions are filed for quashing of F.I.R. bearing C.R. No. 9/15 registered in Navapur Police Station, District Nandurbar for the offences punishable under sections 384, 341, 504, 506, 109, 34 etc. of Indian Penal Code. Both the sides are heard. The learned APP made available the papers of investigation and submitted that there is material to make out prima facie case and for proceeding ahead with the matter.

2. The crime is registered on the basis of report given by one Shaikh Kadar. He is working as a driver on a truck of one Khosla, resident of Mumbai. One Antarsingh was working as a

cleaner on this truck. On 19.1.2015 they emptied the contents of the tank of the truck viz. gas at Ladkaranja, District Washim and they were proceeding towards Hajira, tahsil Chourasi, District Surat to refill the tank. When they were passing by Sadbhav Way Bridge No. 6 situated on national high way No. 6 at about 2.00 p.m., their truck was stopped by the persons working at the way bridge. The complainant informed that the tank was empty, but the persons working at the way bridge, which is at border crossing of the State, said that they would not allow to take the truck ahead unless the entry fee of Rs. 90/- is given. He went to the Superior Officer, but the Superior Officer of the employer said that entry fee must be given and they will not allow to take the truck head unless the entry fees is given. They gave threat and quarreled with the driver, complainant. He then contacted his employer Khosla. Khosla advised him not to pay the entry fee and so, the complainant kept the tanker there and he slept in the cabin. That was on 23.1.2015.

3. On 24.1.2015 at about 1.00 a.m. the persons from the cabin of this bridge and their labours came to the tanker and they started quarreling with the driver. They gave threat of life. The tanker was then parked at some distance from the way bridge. Then the complainant approached R.T.O. officer Shri.

Deshmukh. At this check post, officers of various departments like R.T.O., State Excise Department, Sales Tax Department etc. were present for doing the checking. Shri. Deshmukh advised the persons working in the cabin to allow to take ahead the tanker as it was empty, but the persons employed for collecting the entry fee refused to allow the complainant to take the truck with him. Then as per the advise given by the employer, the driver approached police and gave report on 24.1.2015.

4. The petitioners from Criminal Writ Petition No. 462/2015 are M/s. Sadbhav Engineering Limited, a company incorporated, its Managing Directors, Directors etc. and they are actually collecting the entry fee at this point. The petitioners from Criminal Writ Petition No. 463/2015 are M/s. Maharashtra Border Check Post Network Ltd. and its directors. It can be said that the concern Sadbhav Engineering Limited also belongs to the same Directors who are controlling M/s. Maharashtra Border Check Post Network Ltd. and both were involved in the activity of collecting the entry fee at this point.

5. The learned counsels for the petitioners submitted that as per the agreement made with the Government, they are entitled to collect the entry fee, if they find that laden weight of the vehicle is more than the weight shown in the R.T.O. record.

This Court has carefully gone through the record which includes information supplied by Transport Commissioner, Mumbai in letter dated 29.3.2014. It shows that no entry fee can be collected against empty vehicles. Copy of the order issued by Government shows that on 2.1.2014 the Government informed that it had entered in to an agreement with M/s. Maharashtra Border Check Post Network Ltd. and the period of the contract was twenty four years six months and this concern was allowed to collect the charges in respect of services which include weighing of goods, date entry, scanning, loading, unloading and parking. Thus, the charges were to be taken for giving services. The Government Resolutions of the State Government do not show that from all the vehicles, entry fee could have been collected. Submission was made in the present case that there was difference between the weight of this vehicle which was recorded on weigh bridge and the weight which was given in RCTC book and so, the petitioners were entitled to recover the entry fee. This submission is not at all acceptable. The truck tanker was proceeding to other point for collection of gas. The R.T.O. authority had given clearance. No service was given by the petitioners to the driver or the owner of the truck and so, no entry fee could have been recovered. The difference in weight can be due to many reasons. But, when the other authorities like

R.T.O., Sales Tax Department, Excise Department are not coming in picture and they are not asking to take the weight and then inspect the vehicle, there was no question of giving services and so, there was no question of collecting the entry fee.

6. The learned counsels for petitioners submitted that entry fee was actually not taken and so, it was not proper to register the crime. The aforesaid material shows that the vehicle was detained, threats were given and an attempt was made to extract the money. Such instances are increasing day by day. Everybody and particularly transporters are in hurry and so they pay without objection to it and they are exploited. When the contract is made by the Government, the empty vehicles are excluded from consideration and so, the recovery of such money is also not permissible under the contract. One way the Government is deceived due to such collection and people are exploited. This Court holds that it is not possible to quash the F.I.R.

7. In the result, both the petitions stand dismissed.

[SMT. I.K. JAIN, J.]

[T.V. NALAWADE, J.]

ssc/