

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2437 OF 2015

Rajendra Shantilal Mundada **.... APPLICANT**

V E R S U S

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

**WITH
CRIMINAL APPLICATION NO. 2438 OF 2015**

Prashant Keshavrao Koli **.... APPLICANT**

V E R S U S

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

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Mr. J.R.Shah, Advocate for Applicant.

Mrs. S.G.Chincholkar, A.P.P. for R.No.1 - State.

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CORAM : V.M.DESHPANDE, J.

DATE : 9th JUNE, 2015

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PER COURT :

1. Since these two applications arises out of Crime No. 212/2014 registered with Police Station Nandurbar for the offences punishable u/s 467,420 of the Indian Penal Code,

present applications can be disposed of by this common order.

2. Heard Mr. J.R.Shah, learned counsel for the applicants and Mrs. Pratibha Bharad, learned A.P.P. for Respondent No. 1 - State.

3. The prayer for anticipatory bail moved by the applicants is opposed by the learned A.P.P.

4. The reply is already filed on record.

5. The submissions of the learned counsel for the applicants can be enumerated hereunder :

[i] Names of the applicants are not appearing in the F.I.R.

[ii] F.I.R. was lodged against Nitin Sangle.

[iii] The act on the part of the applicants is only the mistake on their part and for that there can not be any criminal action against them.

[iv] MSEDCL has recovered the dues from the consumers.

6. F.I.R. is lodged by Anil Maniram Medhe, who is

the Assistant Accountant working with MSEDCL at Nandurbar. F.I.R. was lodged on 22/12/2014. F.I.R. shows that it was lodged against Nitin Sangle only. The names of the present applicants are not appearing in the F.I.R.

F.I.R. is not an encyclopedia of the prosecution. The object of the F.I.R. is to move the criminal law into motion. F.I.R. shows that the work of taking meter reading was given to M/s. Sidhant Enterprises. This aspect is not disputed by the present applicants.

Applicant in Criminal Application No. 2437 of 2015 is the Managing Director/Proprietor of said Sidhant Enterprises. Applicant in Criminal Application No. 2438 of 2015 is the Supervisor of Sidhant Enterprises.

7. Undisputedly, Sidhant Enterprises has employed persons to take reading of electric meters of the consumers of MSEDCL and send the data to Sidhant Enterprises. There is no dispute that after the receipt of data from the employees of Sidhant Enterprises in the computer of Sidhant Enterprises at their place, the data is to be uploaded in the chip/memory card, which is sent back to MSEDCL and on the basis of the said memory card, MSEDCL prepare the monthly bill for the consumption of electricity. From the record, undisputed facts which emerges are that the present applicants had direct control over the data received by their employees which they have collected by visiting the houses of the ultimate consumers.

8. Supplementary statement of the first informant is

recorded. In the supplementary statement, first informant, in clinching words, has stated that no wrong is committed by Nitin Sangle against whom F.I.R. was lodged. According to the prosecution case, statement of employees including Nitin Sangle are recorded. Their statements reveal that after collecting the data by visiting the houses of the ultimate consumers of MSEDCL, they have forwarded the data and photographs of the meters to Sidhant Enterprises. Thus, according to the supplementary statement of the first informant, Nitin Sangle, against whom F.I.R. is lodged, has done his duty. After the receipt of data/photographs of the electric meters from the workers like Nitin Sangle, ultimate control over the same was of the applicants. It was their duty to prepare the memory card/chip according to the data collected by the workers and to send it back to MSEDCL to prepare the electricity consumption bills. Here, the role of the present applicants has started. However, it appears, in stead of preparing memory card/chip in accordance with the data collected, they have manipulated the said data in the computer and sent blank memory card/chip to MSEDCL, on the basis of which, bills are prepared and ultimately they have caused loss to MSEDCL. The submission of the learned counsel for the applicant, therefore, can not be accepted that it is merely a mistake and the applicants can not be held responsible. Merely because subsequently the amount is recovered from the consumers, that does not absolve the present applicants from their acts, which at least *prima facie* show that they have done it intentionally. In that view of the matter, thorough investigation is required and the custodial

presence of the applicants is also necessary for recovery of the computers which are in the exclusive control of the present applicants.

9. Hence, Criminal Application Nos. 2437 of 2015 and Criminal Application Nos. 2438 of 2015 are rejected.

[V.M.DESHPANDE, J.]

KNP/Cr.Apln. 2437.2015