

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Writ Petition No.477 Of 2013.

The State of Maharashtra.

Through :-

Avinash Rajesing Dabhade.

Age : 30 Years., Occ.: Food Inspector.

Food and Drugs Administration.

Dhule.

Maharashtra State.

:: Petitioner.

Versus

- (1) Narendra Pralhadsingh Girase.
Age : 45 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Osarli, Tal.&Dist. Nandurbar.

- (2) Kishor Sitaram Birla.
Age : 52 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Koparli, Tal.&Dist. Nandurbar.

- (3) Faridabai Gafur Pinjari.
Age : 47 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Koparli, Tal.&Dist. Nandurbar.

- (4) Zulekhabai Rauf Khatik.
Age : 37 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.

C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Koparli, Tal.&Dist. Nandurbar.

- (5) Rohidas Digambar Girase.
Age : 38 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Osarli, Tal.&Dist. Nandurbar.

- (6) Shaikh Musa Shaikh Ameer.
Age : 73 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Koparli, Tal.&Dist. Nandurbar.

- (7) Mahendra Suratsingh Girase.
Age : 45 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Osarli, Tal.&Dist. Nandurbar.

- (8) Jitendra Digambar Girase.
Age : 45 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Osarli, Tal.&Dist. Nandurbar.

- (9) Naroalsing Suratsingh Girase.
Age : 40 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.
R/o.: Osarli, Tal.&Dist. Nandurbar.

- (10) Samad Musa Khatik.
Age : 40 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Koparli, Tal.&Dist. Nandurbar.

- (11) Rauf Musa Khatik.
Age : 47 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Koparli, Tal.&Dist. Nandurbar.

- (12) Mumtazbi Saeed Pinjari.
Age : 44 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Koparli, Tal.&Dist. Nandurbar.

- (13) Ravindra Bansilal Girase.
Age : 47 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Osarli, Tal.&Dist. Nandurbar.

- (14) Kamalsingh Bandusingh Girase.
Age : 52 Years., Occ.: Business.
So-called Partner of M/s. Tuljabhawani Traders.
C.S.No.6-A-2/1-2, Plot No.11.
Shahada, Tal. Shahada, Dist. Nandurbar.

R/o.: Osarli, Tal.&Dist. Nandurbar.

:: Respondents.

Appearance =>

Mr. V.H. Dighe, Additional Public Prosecutor for the Stte of Maharashtra.

Mr. S.S. Savale, Advocate for Respondent Nos. 1 to 14.

CORAM : V.M. DESHPANDE, J.

DATE : 9th MARCH, 2015.

PER COURT :-

Heard Mr. V.H. Dighe, learned Additional Public Prosecutor for the Petitioner - State and Mr. S.S. Savale, learned counsel for Respondent Nos. 1 to 14.

[2] The State has approached to this court, since it felt aggrieved by the Judgment and Order dated 4th February, 2013 passed by the learned Additional Sessions Judge, Shahada, Dist. Nandurbar in Criminal Revision Application No.25 Of 2012, by which the learned revisional court allowed the Criminal Revision Application filed on behalf of the present respondents and, thereby, set aside the order dated 10th February, 2012 passed by the learned Judicial Magistrate, F.C., Shahada in Regular Criminal Case No.22 Of 2012, by which process was issued against the respondents for the offences punishable under Section.s. 7(i) read with Section 2(ia)(a) and 2(ia)(m) punishable with Section.s. 16 and 17 of the Prevention of Food Adulteration Act, 1954 (In short, the “PFA Act”) and the Prevention of Food Adulteration Rules 1955 (In short, the PFA Rules) and consequently, complaint bearing Regular Criminal Case No.22/2012 was dismissed against them.

[3] In the complaint before the learned Magistrate, accused No.16 is M/s. Jai Tuljabhawani Traders, a Partnership Firm. Present respondents are accused Nos. 2 to 15 in the complaint and they are the Partners of said Firm.

[4] From the entire complaint, except following, no role is ascribed to the present Respondents.

“ that the accused No.1 is the Vendor and Partner of M/s. Jai Tuljabhawani Traders C.S.No.6A-2/1-2, Plot No.11, Shahada, Dist. Nandurbar and accused No.2 to 15 are partners of M/s. Jai Tuljabhawani Traders C.S.No.6A-2/1-2, Plot No.11, Shahada, Dist. Nandurbar doing the business of manufacturing for sale and storing for sale and selling Toddy is being conducted.”

[5] The learned Additional Public Prosecutor has admitted that it is only accused No.1 – Narsingh Laxminarayan Gadagoniwar, who is the Incharge of said Partnership Firm.

[6] There is no accusation in clear words in entire complaint that present Respondents are responsible for day-to-day business of the said Firm. On the contrary, it is clear that, it is the only accused No.1 - Narsingh Gadagoniwar, who is incharge of the day-to-day business of the shop. In fact, the complaint itself reveals that when the Complainant – Food Inspector visited the shop, that time, accused No.1 was present.

[7] In absence of any allegations in the complaint and as no material is available on record to show that Respondents were in any way responsible for day-to-day conduct of the business, in my view, the learned revisional court has rightly interfered with the order of issuance of process, passed by the learned Magistrate.

[8] Issuance of process is having a drastic effect. A person against whom process is issued has to face ordeal of criminal trial. Order dated 10th February, 2012 passed by the learned Magistrate clearly shows that, learned

Magistrate has not considered this aspect at all. In that view of the matter, I see no reason to interfere with the well reasoned order passed by the revisional court in dismissing the complaint against accused Nos. 2 to 15. Hence, no case is made out for interference. Hence, Writ Petition is dismissed.

(V.M. DESHPANDE, J.)