

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1492 OF 2014

Shaikh Mukhtaroddin Shaikh Imamoddin,
Age-41 years, Occu:Driver,
R/o-Pir-Burhan Nagar, Nanded,
Dist-Nanded.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
- 2) District Superintendent of Police,
Nanded, Dist-Nanded,
- 3) Shridhar Pawar,
Police Inspector of
Local Crime Branch Nanded,
Dist-Nanded.

...RESPONDENTS

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Mr.Subhash V. Mundhe Advocate for Petitioner.
Mr.B.L. Dhus, A.P.P. for Resp. Nos. 1 & 2.
Mr. Manoj Shinde Advocate for Resp. No.3.

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**CORAM: A.B. CHAUDHARI AND
INDIRA K. JAIN, JJ.**

DATE : 11TH SEPTEMBER, 2015

ORDER :

1. Heard learned counsel appearing for the
rival parties.

2. Prayer Clauses (B) and (C) of the Petition read as under:

"(B) Direct the respondent no.2 to initiate enquiry against the present respondent no.3 in respect of illegal detention of vehicle i.e. truck no.MH-10-Z-1013,

(C) Direct the respondent no.3 to pay the compensation to the tune of Rs.5,00,000/- to the petitioner for the illegal detention of his truck no.MH-10-Z-103."

3. Insofar as prayer clause (B) is concerned, the learned A.P.P. makes statement that enquiry was conducted and prima facie, some police officers who were involved, fine was imposed on them, in respect of the subject matter of the present Writ Petition. We thus, find that prayer clause (B) stands satisfied.

4. Now coming to the prayer clause (C) of the Petition, the learned counsel for the Petitioner vehemently argued that this Court should direct the Respondents to pay compensation to the Petitioner to the tune of Rupees Five Lakh. The counsel also relied on the Judgment in the case of **State of Maharashtra and others vs. Nanded-Parbhani Z.L.B.M.V. Operator Sangh, reported in A.I.R. 2000 S.C. 725**, in which compensation was granted. He submits that the said Judgment of the Apex Court arise out of the Judgment of the Bombay High Court in the case of **Nanded Parbhani Zilla Luxury Bus Malak Va Operator Sangh vs. State of Maharashtra, reported in 1999 (11) LJSOFT 19**. The counsel submits that Bombay High Court Judgment was confirmed in the Apex Court and therefore this Court should grant compensation.

5. Upon hearing learned counsel for the rival parties we noticed that enquiry has been

conducted against erring officers and fine has been imposed. At the outset we think it is not possible for this Court to come to definite conclusion that the Petitioner should be automatically awarded compensation as claimed. That apart, it is not possible for us, without recording of the evidence of the all concerned and then such evidence undergoing the test of cross-examination, to award any compensation, not only on the question of liability but also on the quantum. That can only be done in the Civil Suit for claiming the damages.

6. The Judgment cited by the learned counsel for the Petitioner is in relation to the detention of the passenger vehicle allegedly in contravention of the permit and the Apex Court found that the detention could not be made. The case in hand is not one of the contravention of permit but one of the allegations regarding stolen vehicle. We, therefore, draw clear distinction

from the said Judgment. That apart, we are of the firm opinion that award of compensation in the matter depends upon assessment of evidence from all the angles and therefore, it is not possible for us to grant any relief as prayed for in prayer clause (C) of the Petition.

7. As a result, we make the following order:

O R D E R

. Criminal Writ Petition No.1492 of 2014 is disposed of, reserving liberty in favour of the Petitioner to claim damages in accordance with law by taking recourse to other statutory remedy, including filing of Civil Suit.

[INDIRA K. JAIN, J.]

[A.B. CHAUDHARI, J.]

asb/SEP15