

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Writ Petition No.332 of 2014
[Vasanta Sukaji Gahane & three others Vs. State of Mah. & two others]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. A.J. Thakkar, Adv., for the petitioners.
Mr. T.A. Mirza, APP for respondents.

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**CORAM : A.B. CHAUDHARI AND
P.N. DESHMUKH, JJ.**

DATE : 18th March, 2015.

Heard Mr. Thakkar, learned counsel for the petitioners, who vehemently contended that because of mere purchase and storage of 605 liters of diesel by the petitioners, no offence is said to have been constituted under the provisions of the Essential Commodities Act and the relevant Order issued thereunder. He submitted that when no offence is constituted, this Court must intervene and exercise the jurisdiction under Section 482 of Criminal Procedure Code to quash the First

Information Report and the charge-sheet pursuant thereto.

Per contra, Mr. Mirza, learned APP, opposed the application and submitted that the charge-sheet has already been filed and, therefore, all the submissions made by Mr. Thakkar can be made before the learned Special Judge by making appropriate application.

In view of filing of the charge-sheet, we are inclined to accept the submission made by Mr. Mirza, learned APP, since, according to us, in an application for discharge, as the case may be, the Special Judge would be in a better position to analyze the contentions which have been raised before us by Mr. Thakkar, rather than we doing the same under the jurisdiction under Section 482, Criminal Procedure Code. We do not mean to say that there is no substance in the contention of Mr. Thakkar and, therefore, we keep all the contentions advanced in the present petition open. We, therefore, make the following order:-

ORDER

[a] Criminal Writ Petition No. 332 of 2014 is

disposed of, reserving liberty in favour of the petitioners to make appropriate application before the Special Judge, since charge-sheet has been filed.

[b] If such application is made, learned Special Judge shall hear and dispose of the same expeditiously.

[c] This Court had granted interim order on 24th April, 2014. If the sale is not already made, the same shall be made and the proceeds thereof shall be deposited in the Court with liberty to the petitioners to raise claim for the proceeds.

With above observations, Writ Petition is disposed of.

Judge

Judge

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