

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [APPP] No.901 of 2015
in
Criminal Application [APL] No.462 of 2014

(Anil Ramchandra Babhale

vs.

The State of Maharashtra, Revenue and Forest Department, Mumbai and others)

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

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Court's or Judge's Orders

*Mr. S.R. Deshpande, Advocate for the Applicant.
Mrs. Bharti Dangre, Advocate for the Non-Applciant Nos.2 to 5.
Mr. M.K. Pathan, A.P.P. for Non-Applciant Nos.1, 8 and 9.*

CORAM : B.R. GAVAI AND P.B. VARALE, JJ.

DATE : SEPTEMBER 21, 2015.

By way of the present application, the applicant is seeking direction to the non-applciant/State to take action against four persons and lodge F.I.R. against those four persons and start departmental enquiry against all the persons including these four persons.

It appears from the record that the present applicant has filed an application for quashing the charge-sheet filed against him for various offences under the Indian Forest Act as well as the Indian Penal Code.

The Division Bench of this Court vide order dated 06/05/2015 held that the offences committed by the applicant could not have been committed by him without connivance of the Forest Officers. As such, vide the order dated 06/05/2015,

the various directions have been issued including registration of F.I.R. against the Officers of the Forest Department and taking steps for recovery of the losses of revenue and also departmental proceedings against the Forest Officers.

In pursuant to the directions issued by this Court, the State has already lodged F.I.R. against seven persons. The State has also initiated departmental proceedings against 12 Officers of the Forest Department for dereliction of their duties and for recovering the amount from them on account of the losses caused to the revenue.

Not satisfied with these, the present applicant has filed the present application for the aforesaid relief. *Prima facie*, we find that such an application at the behest of the applicant itself is not tenable.

In pursuant to the directions issued by this Court dated 06/05/2015, the matter is solely between this Court and the State, insofar as the compliance of directions issued by this Court. The perusal of those directions would reveal that this Court has issued those directions taking into consideration the larger public interest.

A co-accused cannot be heard to say that the other persons should also be impleaded as co-accused, at least in his application seeking quashment of charge-sheet filed against him.

In the application, it is stated that one Mr. Thapliyal, D.F.O. (Planning) had conducted a survey without giving notice to the applicant and as such the survey conducted by said Mr. Thapliyal is illegal. It is stated that, as a matter of fact, said Mr. Thapliyal had never conducted of such a survey. Insofar as one Mr. Ravi Agrawal, R.F.O. is concerned, it is stated that he had illegally seized the implements on the spot and continuously threatening the applicant to send him in jail, if he fails to fulfill his demand. It is stated that since the present applicant had made a complaint against him, said Mr. Agrawal had grievance against the present applicant. Insofar as one Mr. G.V. Sanap, R.F.O. is concerned, the allegation is that in spite of repeated requests to him by the applicant for measurement of the land through T.I.L.R., he did nothing and made a false statement while opposing the bail of the present applicant. It is further stated that insofar as said Mr. Sanap is concerned, he is changing his statements from time to time. Insofar as one Mr. P.K. Mahajan, Deputy Conservator of Forest, is concerned, the allegation made is that he made a false statement in an interview to the press reporter that the present applicant was absconding.

The Apex Court in the case of *M.C. Abraham and Anr. v. State of Maharashtra and Ors.*, reported in *(2003) 2 SCC 649*, has held that while the investigation is in progress,

even the High Court does not have power to monitor the investigation and direct the investigation to be carried out in a particular manner.

In that view of the matter, we find that the prayer as made in the application cannot be granted. If the investigating agency does not find that any material is available to prosecute against the those four persons/officers, merely at the request of the applicant, they cannot be directed to be impleaded as co-accused along with the present applicant.

If the applicant has no grievance against those Officers, he is always at liberty to take recourse of such remedy available to him either in criminal law or civil law.

Reserving those rights to the applicant, the present application is rejected.

JUDGE

JUDGE

**sdw*