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

CRIMINAL REVISION APPLICATION NO. 102 OF 2015

1. The State of Maharashtra
 2. The Inspector, RPF Bhusawal,
Bhusawal Railway Station,
Bhusawal
- ..PETITIONERS

VERSUS

1. Liladhar Mitharam Patil,
Age: 60 years, Occu: Business,
R/o Dongar Kathora, Tq. Yawal
 2. Yogesh Prabhakar Mahurkar,
Age: 42 years, Occu: Service,
R/o Behind Ashtabhuja Devi
Temple, Bhusawal, Dist. Jalgaon
 3. Prakash Pralhad Patil,
Age: 52 years, Occu: Service,
R/o Shanti Nagar, Bhusawal
 4. Chandrakant Jagannath Patil,
Age: 52 years, Occu: Agri.,
R/o Dongar Kathora, Tq. Yawal,
 5. Arun Pandit Patil – dead
 6. Narayan Ramchandra Zambre,
Age: 60 years, Occu: Agri.,
R/o Bamnod, Tq. Yawal,
Dist. Jalgaon
- ..RESPONDENTS

Mr R. V. Dasalkar, Addl. Public Prosecutor for petitioners;
Mr P. P. More, Advocate holding for Mr N. S. Ingle, Advocate for
respondent No. 2;
Mr A. S. Deshmukh, Advocate for respondent Nos. 1,3,4 & 6

CORAM : N.W. SAMBRE, J.

DATE : 24th August, 2016

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ORAL ORDER :

Having heard learned Addl. Public Prosecutor at length, it is noted that learned Additional Sessions Judge, Jalgaon, vide order dated 8th January, 2013, has set aside the order dated 8th February, 2012, passed below Exh.1 by the learned Magistrate framing charge at Exh.64 against the respondents.

2. According to the learned Addl. Public Prosecutor, before framing the charge, evidence was recorded and based on the same, having noted, *prima facie* evidence available against the respondents-accused, the charge came to be framed against them for offence punishable under section 3 (a) of the Railway Property (Unlawful Possession) Act.

3. Learned Addl. Public Prosecutor would then urge that the learned revisional court has exceeded its jurisdiction in appreciating evidence contrary to the contents of the testimonies, *qua* framing of charge, which is not sustainable.

4. Mr More and Mr Deshmukh, learned Counsel appearing on behalf of the respondents supported the impugned order.

5. P.W.2 Motilal, an official of the railway department who was present during the raid noticed certain fish plates, to the extent of 200 and odd Kgs. To be the railway property, however, in cross-examination he could not identify the same as railway property. There is hardly any material on

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record that the property in question was identified to be that of property of railway, so as to attract the provisions of section 3 (a) of the Railway Property (Unlawful Possession) Act.

6. In view thereof, no case for interference in the impugned order is made out. Thus, Criminal Revision fails and stands dismissed.

(N.W. SAMBRE, J.)

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