

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

CRIMINAL APPLICATION NO. 1903 OF 2003

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1. Nandkishor S/o Laxminarayan Kagliwal,
Age: 56 years, Occu: Business,
R/o: Akash Farm, Nath Road, Aurangabad.
2. Satish S/o Laxminarayan Kagliwal,
Age: 45 years, Occu: Business,
R/o. Adalat Road, Auranabad.
3. Kumar s/o Govindrao Anwikar,
Age: 65 years, Occu: Business,
R/o. Anwi, Taluka Sillod,
District: Auranagbad.
4. Radheshyam S/o Shivram Attal
Age: 50 years, Occu: Agriculture,
R/o Georai, Tq. Georai,
Dist. Beed.
5. Laxman S/o Ganpati Ayyar,
Age: 54 years, Occu: Service,
R/o. Aurangabad.
Gut No. 64/2, Nath Seeds, Nath House,
Paithan Road, Auranagabad

...PETITIONERS...

(Accused No.1, 2, 4, 6 & 7)

VERSUS

1. The State of Maharashtra,
(Copy to be served on the Public
Prosecutor, High Court Bench
at Aurangabad)
2. The Superintendent of Police,
Buldhana.

3. The Police Station Officer,
Police Station Kranti Chowk,
Aurangabad,
4. Devidas S/o Pralhad Kulkarni,
Agricultural Development Officer,
Zilla Parishad, Buldhana. **(Deleted)**

..RESPONDENTS..

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Advocate for Applicants : Mr D V Soman
APP for Respondents : Miss R P Gour

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CORAM : V.K. JADHAV, J.

Dated: August 29, 2016

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ORAL JUDGMENT :-

1. Being aggrieved by the order passed below Exh.57 in RCC No.165/1997 by the Chief Judicial Magistrate, Aurangabad, the original accused nos. 1 to 4, 6 and 7 preferred this criminal application.

2. Brief facts, giving rise to the present application, are as under :-

The petitioners are the Directors of the Company named and styled as 'Nath Seeds Limited' engaged in the Productions and Marketing of Cotton Seeds. The Agricultural officer of the Zilla Parishad, Buldhana had lodged complaint against the petitioners and many other seeds companies on the ground that the cotton seed

CAHH-468 is not giving proper yield. The Agricultural Officer has lodged the complaint at Police Station Kranti Chowk and on the basis of his complaint Crime no.123 of 1994 came to be registered at Police Station Kranti Chowk, Aurangabad. After due investigation, charge sheet came to be submitted before the Court and accordingly RCC No.179/1997 is registered. The petitioners-original accused moved an application for discharge and the same was rejected mainly on the ground that the petitioners and their counsel was absent when the matter was called out for hearing.

3. The learned counsel for the petitioner submits that, as per the provisions of Rule 23A of the Seeds (Control) Rules, 1968, the Seed Inspector is empowered to investigate in such matter, if, the complaint is lodged with him that failure of the crop is due to defective quality of seeds of any kind or variety supplied to him, the Seed Inspector shall take in his possession the marks of labels, the seed containers and a sample of unused seeds to the extent possible from the complainant for establishing the source of supply of

seeds and shall investigate the causes of the failure of his crop by sending samples of the lot to the Seed Analyst for detailed analysis at the State Seed Testing Laboratory. Learned counsel submits that, there is no question of prosecution by filing charge sheet after registration of the Crime in the police station either under the provisions of the Seeds Act or under the provisions of the Indian Penal Code.

4. Learned counsel submits that, the breeder who has produced said seeds is Punjab Krushi Vidyapith and in that course of the matter, the provisions of section 420 of Indian Penal Code cannot be attracted against the petitioners. Learned counsel submits that this Court on earlier occasion wherein such prosecution initiated at the behest of the Seed Inspector against the manufacturer quashed and set aside said prosecution. Learned counsel for the applicant placed his reliance on four cases of this Court where in the prosecution against manufacturer came to be quashed in identical situation.

- i. *Korra Srinivas Rao Vs. The State reported in 2002 (4) ALL M.R. 368.*

- ii. *Criminal Application No.1839/2001 Ajit Muley and others Vs. The State.*
- iii. *Criminal Application No.3528/2004 Padmakar Muley and others Vs. The State.*
- iv. *Criminal W P No.19/2002 Padmakar Muley and others Vs. The State.*

5. I have also heard the learned APP for the State.

6. In the instant case, Agriculture Officer of Zilla Parishad has directly lodged the complaint in police Station Kranti Chowk, Aurangabad and on the basis of his complaint Crime No.123/1994 came to be registered. In view of the provisions of Rule 23A, Sub Rule 2 of the Seeds Rules, 1968, Seed Inspector can initiate a proceeding in respect of the complaint of the Farmers regarding failure of crop due to defective quality of seeds after detail investigation by himself. The police authorities cannot investigate such case. Assuming that charge under section 420 of the Indian Penal Code is levelled against the petitioners and, therefore, the police can investigate into the matter and after due investigation submit charge sheet even then, it

appears from the allegations made in the complaint and on careful perusal of the charge sheet, ingredients of section 420 of Indian Penal Code hardly attracts in the present case. It is not disputed that, the petitioner who are the Directors of the Manufacturer Company, received said seeds from the breeder Punjab Krushi Vidyapeeth. It was thereafter processed by the Government Agency and certified by the District Seed Certification Agency about the quality of the breeding seeds, its performance. In the aforesaid cases relied upon by the learned counsel for the petitioner, this Court has held that, prosecution against the manufacturer is liable to be quashed and set aside.

7. So, in view of the above, even though, the Chief Judicial Magistrate has not passed impugned order on merits, there is no point in sending this matter back for re-consideration. Hence, following order.

ORDER

- I. Criminal Application is hereby allowed in terms of prayer clauses **“C” and “D”** as against present petitioners.

II. Criminal Application is accordingly disposed of. Rule is made absolute in above terms.

sd/-

(V.K. JADHAV, J.)

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aaa/-