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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELATE JURISDICTION
CRIMINAL APPLICATION NO.1325 OF 2014

Chandrabhan Shridhar Handore ...Applicant
vs.
State of Maharashtra ...Respondent

Mr.Amey Deshpande for the applicant
Ms M.H.Mhatre, APP for the respondent

CORAM : A.S.OKA, &
 A.A.SAYED, JJ.
DATE : AUGUST 11, 2016

P.C.:

1 Rule. The learned APP waives service. Forthwith taken up for final disposal. The prayer in this application under section 482 of the Code of Criminal Procedure, 1973 is for quashing the FIR registered for the offences punishable under sections 13, 17 and 18 read with section 31 of the Insecticide Act, 1968 (for short 'the said Act of 1968'). Our attention is invited to Section 29 of the said Act of 1968. Certain acts and omissions have been made an offence under the said Act of 1968. As far as the offence of obstructing the Insecticide Inspector from exercising his powers and discharge of his duties is concerned, for the first offence, the punishment is of two years and in case of second and subsequent offences, punishment may extend up to three years. In the present case, that is not the offence alleged. As per sub-section (2) of section 29, it is provided that whoever uses an

insecticide in contravention of any provision of the said Act of 1968 or any rule made thereunder shall be punishable with fine which may extend to five hundred rupees. For the first offence, the imprisonment is for a term which may extend to six months, or with fine or with both. In the present case, clause (f) of sub-section (1) of section 29 is not applicable. Therefore, the offence alleged against the applicant is punishable with imprisonment which is less than three years. Therefore, as per schedule II of the Code of Criminal Procedure, 1973, the offence alleged against the applicant is non cognizable.

2 Only the information relating to commission of a cognizable offence can be registered under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973. Therefore, in the present case, FIR could not have been registered. In the present case, recourse ought to have been taken at highest to sub-section 1 of section 155. In view of sub-section (1) of section 155, investigation could not have been carried out without specific order of the learned Magistrate having jurisdiction to try the offence.

3 Only on the aforesaid ground, the impugned FIR will have to be quashed and set aside. However, remedy of the State of taking recourse to section 155 of the Code of Criminal Procedure, 1973 will have to be kept open.

4 Accordingly, we pass the following order:

(I) Rule is made absolute in terms of prayer clause (A) which reads thus:

"(A) This Hon'ble Court be pleased to quash and set aside the F.I.R. in C.R.No. II 86/2014 registered on 27.11.2014 at Pimpalgaon (Baswant) Police Station by the Insecticide Analyst."

(II) We make it clear that we have made no adjudication on the merits of controversy;

(III) This order will not preclude the respondent from taking recourse to section 155 of the Code of Criminal Procedure, 1973;

(IV) All contentions of the applicant in that behalf are kept open.

(A.A.SAYED, J.)

(A.S.OKA, J.)