

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

CRIMINAL APPLICATION (ABA) NO.9 OF 2017

Mujjameen Shaikh Ayyub and anr

..VS..

State of Maharashtra, thr. P.S.O. Pinjar, Taluka Barshi Takli, District Akola

AND

CRIMINAL APPLICATION (ABA) NO.10 OF 2017

Amar s/o Sudhirrao Deshmukh

..VS..

State of Maharashtra, thr. P.S.O. Pinjar, Taluka Barshi Takli, District Akola

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

Court's or Judge's Order

Shri N.L. Jaiswal, Counsel for the applicants.
Shri N.B. Jawade, Addl.P.P. for the non-applicant.

**CORAM : P.N. DESHMUKH, J.
DATED : FEBRUARY 27, 2017.**

Heard.

Both these applications are heard together and decided by this common order as they are arising out of Crime No.200 of 2016 registered for the offences punishable under Sections 353 and 186 read with Section 34 of the Indian Penal Code.

Heard learned counsel for the applicants and learned Additional Public Prosecutor.

It is submitted on behalf of applicants that

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they are involved in a belated report falsely and to substantiate said fact, learned counsel has relied upon one panchanama, drawn by complainant, when he in his capacity as a Bailiff visited applicants Mujjameen Shaikh Ayyud and Abdul Washim Abdul Rashi for execution of the Court's order and has submitted that as per contents of said document, which is drawn at 12:00 noon, there is reference of these two applicants alone along with co-accused Pravin who is admittedly on bail. However, he has submitted that on lodging report 6:00 hours thereafter has involved applicant Amar. It is further contended that as per contents of report of panchanama, electricity supply of shop of applicants in Criminal Application No.9 of 2017 was disconnected at that time. However according to statement of Assistant Engineer, Electric Department, same was disconnected on the request of complainant at 2:30 noon..

By referring to these documents it is, therefore, submitted that there are material inconsistency and since applicant Amar is found to be involved for the first time in the report, applications are prayed to be allowed by further contending that after protecting applicants from their arrest though investigating agency were granted liberty to interrogate applicants by calling them as and when required, it is submitted that since interim direction dated 10.1.2017

neither of applicants are called for the purpose of investigation.

Learned Additional Public Prosecutor has opposed application as per its reply on record.

Perusal of report reveals that applicants along with co-accused Pravin had manhandled complainant when he was carrying out work of execution of warrant. It is material to note that co-accused Pravin, who was found on the spot, is released on regular bail. In the report, apart from names of applicants, in Criminal Application No.9 of 2017, name of applicant Amar is also mentioned to have manhandled complainant by carrying out his duty. However, on perusal of panchanama drawn by complainant which is also dated 23.12.2016, there is no name of applicant Amar mentioned in it, which raises doubt in the contents of report. Moreover, co-accused Pravin is already released on bail and no attempts are made by investigating agency to call applicants for the purpose of interrogation since 10.1.2017 when they were granted interim protection from arrest.

In that view of the matter, order dated 10.1.2017 is liable to be confirmed as per the order below:

Applications are allowed on the same terms and conditions with further direction to applicants to

attend investigating officer as and when called, till filing of charge-sheet.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 28/2/2017

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