

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

Criminal Application (APL) No.788 of 2014

(Moreshwar Gajanrao Mangulkar and another -vs.- The State of Maharashtra, thr. PSO Saoner,
Dist. Nagpur & another)

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

Court's or Judge's orders.

Ms. P.M. Hande, Advocate for Applicants.
Mr. N.R. Rode, APP for State.

**CORAM : R.K. DESHPANDE &
MANISH PITALE, JJ.**

DATE : 16.08.2017.

By the instant application filed by the petitioners under Section 482 of the Code of Criminal Procedure, prayer is made for quashing and setting aside the F.I.R. No.254/2007 dated 09.11.2007 and charge-sheet No.156/2009 registered against the petitioners for the offence punishable under Sections 406, 409 and 109 of the Indian Penal Code as also under Sections 3 and 7 of the Essential Commodities Act. The petitioners are ration shop owners. In response to the application, non-applicant No.1 has filed reply stating in paragraph 4 as follows :-

"It is further submitted that the case of prosecution that both are accused/applicants were arrested and it was disclosed by them that

they sold the food-grains (Rice) in the open market after purchasing the same illegally from the Godawn Keeper and the transporter. During the investigation the investigating agency seized an amount of Rs.13,650/- vide seizer panchnama dated 29.11.2007. Whereas Rs.200/- was recovered from the present applicant No.2 vide seizer panchnama dated 05.12.2007 he has further stated that, the remaining amount after sale of food-grains(Rice) in the weekly market, he has already spend that amount."

2. Perusal of F.I.R. and charge-sheet as also statement of the complainant-Tahsildar show that there is no mention of any material nor is there any statement in respect of the allegations as reflected in paragraph 4 quoted above. In the absence of any such allegations in respect of offence mentioned in the F.I.R. and charge-sheet against petitioners, it is evident that said F.I.R. and charge-sheet are not sustainable and they deserve to be quashed. It is also relevant that F.I.R. as against the main accused i.e. the transporter has been already quashed by this Court by its judgment and order dated 01.12.2011 passed in Criminal Application No.3463/2009.

3. In view of above, we find that the prayer made by the petitioners in this petition deserves to be granted. Accordingly, we exercise our powers under Section 482 and

quash and set aside the F.I.R. and charge-sheet filed against the petitioners.

JUDGE

JUDGE

waghmare