

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 4539 OF 2007

1. Hashmi Syed Majid Ali s/o Syed Akbar Ali,
Age: 52 years, Occu: Service as Depot
Manager in M.S.R.T.C. Nanded Depot,
R/o Central Bus Station, Nanded.
2. Rajeshwar s/o Yelappa Mupade,
Age: 44 years, Occu: Service as
Assistant Traffic Superintendent,
Stand in-charge, Nanded Central
Bus Station, R/o Nanded,
Dist. Nanded.
3. Navneed s/o Machindranath Chaturbhuj,
Age 49 years, Occu: Service as
Traffic Inspector (Commercial)
Central Bus Station, R/o Nanded,
Dist. Nanded.

... APPLICANTS

VERSUS

1. The State of Maharashtra,
Through Police Station Vazirabad,
Nanded, Dist. Nanded.
2. Gopal s/o Chotulal Bhatawale,
Age: 45 years, Occu: Business,
R/o Near Saw Mill, Itwara Bazar,
Nanded.

... RESPONDENTS

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Ms. Tahiwarekhan Wajeedkhan Pathan, Advocate for Applicants.
Mrs. V. S. Choudhary, APP for Respondent No.1 / State.
Mr. S. G. Chincholkar, Advocate for Respondent No.2.

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WITH**CRIMINAL APPLICATION NO. 1594 OF 2018**

1. Hashmi Syed Majid Ali s/o Syed Akbar Ali, age: 64 years, Occupation Retired Depot Manager, M.S.R.T.C. Nanded, R/o Central Bus Stand Nanded.

... APPLICANTS**VERSUS**

1. The State of Maharashtra, Through: Police Station Vazirabad, Nanded District Nanded.
2. Gopal s/o Chotulal Bhatawale, Age: 55 years, Occupation Business, R/o near Saw Mill, Itwara Bazar, Nanded.
3. Rajeshwar s/o Yelappa Muade, Age: 55 years, Occupation Service as Assistant Traffic Superintendent, Central Bus Stand, Tq. & Dist. Nanded.
4. Navneed s/o Machindranath Chaturbhuj, Age 59 years, Occupation Service as Traffic Inspector (Commercial) Central Bus Stand Nanded, Tq. & Dist. Nanded.

... NON-APPLICANTS**... NON-APPLICANTS**
(Original Applicants 2 & 3)

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Ms. Tahiarkhan Wajeedkhan Pathan, Advocate for Applicant.
 Mrs. V. S. Choudhary, APP for Respondent No.1 / State.
 Mr. S. G. Chincholkar, Advocate for Respondent No.2.

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CORAM : **T. V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 03rd July, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. The application is filed under Section 482 of the Code of Criminal Procedure for relief of quashing of Crime No.253 of 2007, registered with Vazirabad Police Station, Nanded, for the offences punishable under Sections 395, 447 and 379 read with 34 of the Indian Penal Code and Section 136 of the Indian Electricity Act.

2 Both the sides are heard.

3 The crime is registered on the basis of order made by learned Judicial Magistrate First Class under Section 156(3) of the Code of Criminal Procedure in Criminal Application No.272 of 2007. It is the contention of Respondent No.2, Complainant that he was running a stall of sugarcane juice in the premises of MSRTC and he had some dispute with MSRTC about his entitlement to run such business in the premises of MSRTC. It is contended that he had filed Regular Civil Suit No.672 of 2006 in Civil Court against MSRTC and in the suit, for some time, there was relief of temporary injunction in his

favour. It is his contention that if his licence period was over, MSRTC was expected to file proper proceeding for eviction under the Government Premises Eviction Act, but that was not done. It is contended that on 19th October, 2007, the Applicants and their employees went to stall, they removed the articles to take possession and they also committed offence under Section 136 of the Electricity Act, 2003 as the supply of electricity was cut off.

4 The submissions made show that Respondent No.2, Complainant has informed to MSRTC that he has returned the possession to MSRTC and he had even paid the charges for using the premises. This letter was given on 21st May, 2017. In any case, it is not disputed that the licence period was over and the Civil Court had vacated the injunction, which was initially granted in favour of Respondent No.2. He was simply licensee in the premises and as his period was over, he was unauthorizedly in the premises of MSRTC. In view of these circumstances and as articles of Respondent No.2 were there without authorization, they were removed. There is a record of taking police help and preparing *Panchanama* of the incident. Thus, nothing was done illegal. It is clear that only to

pressurize the Applicants, officers of MSRTC, report was given to police. In the result, the following order is passed:

ORDER

- I. Criminal Application No.4539 of 2007 is allowed.
- II. Relief is granted in terms of prayer clause (B).
- III. Rule made absolute in those terms.
- IV. Criminal Application No.1594 of 2018, which was filed for granting permission to the Applicant to go abroad is disposed of as there is no necessity of such permission.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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