

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1938 OF 2018

1. Devidas s/o. Shamrao Shirse,
Age 56 years, Occu. Service,
R/o. At Post Bahirgon,
Ta. Kannad, Dist. Aurangabad. **....Applicant.**

Versus

1. The State of Maharashtra
Through Investigating Officer,
Kannad Police Station,
Tq. Kannad, Dist. Aurangabad.
2. Harshwardhan s/o. Rameshwar Kamble,
Age 40 years, Occu. Driver,
R/o. Central Bus Stand ST Depot No.2,
Kranti Chowk, Aurangabad. **....Respondents.**

WITH
CRIMINAL APPLICATION NO. 1939 OF 2018

1. Shantaram s/o. Dashrath Choudhari
Age 42 years, Occu. Service,
R/o. At Post Hivarkheda Road,
Vivekanand Colony, Ta. Kannad,
Dist. Aurangabad. **....Applicant.**

Versus

1. The State of Maharashtra
Through Investigating Officer,
Kannad Police Station,
Tq. Kannad, Dist. Aurangabad.
2. Harshwardhan s/o. Rameshwar Kamble,
Age 40 years, Occu. Driver,
R/o. Central Bus Stand ST Depot No.2,
Kranti Chowk, Aurangabad. **....Respondents.**

Mr. G.J. Pahilwan, Advocate for applicants.

Mrs. P.V. Diggikar, APP for respondent No. 1/State.

Mr. H.C. Puse, Advocate for respondent No. 2.

CORAM : T.V. NALAWADE AND
SMT. VIBHA KANKANWADI, JJ.
DATED : 05/10/2018.

JUDGMENT : [PER T.V. NALAWADE, J.]

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) Both the proceedings are filed under section 482 of Criminal Procedure Code for relief of quashing of C.R. No. 127/2018 registered with Kannad Police Station, Tahsil Kannad, District Aurangabad for offences punishable under sections 336 r/w. 34 of Indian Penal Code and section 3 of Prevention of Damage to the Public Property Act, 1984. The applicants are working as drivers in Maharashtra State Road Transport Corporation (M.S.R.T.C.). It appears that employees of M.S.R.T.C. had started agitation, but some employees had not participated in the agitation and they were discharging the duty. The F.I.R. is given by one driver Harshwardhan in respect of the incident which took place on 9.6.2018 at 9.20 hours near Ambadi dam. The bus had just left Kannad and driver noticed that two persons came on motorcycle from backside, they pelted stones on the backside glass of bus and due to that the glass broke. He gave report against two unknown persons.

3) The papers of investigation reveal that some persons were agitating and the present applicants had also participated in the agitation. Only by using that circumstance they are shown as accused in the present matter. There is virtually no evidence against the applicants. No witness is there, who will be saying before the Court that he had seen the applicants pelting stone on the bus of M.S.R.T.C. In view of these circumstances, this Court holds that nothing can be achieved if the applicants are made to face the trial for aforesaid offence. In the result, both the applications are allowed. Relief is granted to the applicants in both the proceedings in terms of prayer clause 'B'. Rule is made absolute in those terms.

[SMT. VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]

SSC/

Salim
Shafi
Choudhari

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by Salim Shafi
Choudhari
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