

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

Jeevan J. Jadhav and anr. ..Applicants  
vs.  
The State of Maharashtra ..Respondent.

Mrs. Ujjwala S.Chavan ..Applicant  
vs.  
The State of Maharashtra ..Respondent.

CORAM :A.S.GADKARI, J.  
DATE : 11<sup>th</sup> December, 2018

1. By an Order dated 13.11.2017 the applicants were granted interim relief.
2. Heard the learned counsel for the applicants, the learned counsel for the Intervener and the learned APP. Perused the record of investigation.
3. The first information report is lodged by Shri. Bhalchandra Pol, a Promoter having 49% of shares in Nutrix Gold Agro Pvt. Ltd. situated at Village Kinhai, Tal.Koregaon,

District Satara.

It is the prosecution case that, the first informant along with applicant No.1 Jeevan Jadhav and another Director namely Sameer Phafale formed the said company, wherein the first informant is having 49% shares. The applicant No.1 is having 49% shares and the third Director Mr. Sameer Phafale is having 2% shares. The business of the said firm is to manufacture Paneer and Ghee. It is alleged that the informant invested about a Crore of rupees in the said company for purchase of plant and machinery. The land beneath the factory was provided by applicant No.1 by executing a leave and licence agreement. That after the dispute inter-se between the Directors of the said company took place, the informant removed the applicants herein from the affairs of the company. That the working of the company was closed down after 1.10.2017. It is alleged that, the applicant No.1 on or before 3.10.2017 had removed the goods worth Rs.29,00,000/- from the factory premises and sold it in open market without permission of the informant. It is further alleged that, after 1.10.2017 the applicants herein and inducted the applicant Mrs. Ujwala Chavan who is the sister of applicant No.1 as Director of the

said company, removed the goods from the company worth Rs.35,00,000/- and without depositing the amount in the account of company utilized it for their personal benefits and committed defalcation of the said amount.

4. Mr. Kadam, the learned counsel appearing for the first informant submitted that, the applicants have retained the plant and machinery which has been erected in the premises of the said factory. He also submitted that, the applicants by committing act of criminal breach of trust and cheating have defalcated an amount of Rs.35,00,000/- belonging to the Company and for recovery of the said amount thorough interrogation of the applicants is necessary. He further submitted that the applicants have not told to the informant till date about the whereabouts of the said goods and the place where they sold the product of the company. He submitted that manufactured product of the company was a perishable commodity and therefore, the applicants with haste sold the same in open market. He therefore prayed that the both the applications may be rejected.

5. Perusal of record of investigation indicates that, some of the workers who are employed in the said company have stated

that, the applicant No.1 Jeevan Jadhav somewhere on 22.10.2017 or 23.10.2017 has removed 2225 Kgs. of Paneer from the factory, loaded it in his own car and left the factory premises. The material collected by the Investigating agency till date does not indicate that, the goods claimed by the informant were beyond the said quantity of Paneer and/or Ghee and it prima facie appears that, the allegation of the informant about the loss of 35,00,000/- of rupees prima facie appears to be an exaggerated version. Even otherwise, perusal of the first information report and the statement of the witnesses indicates that, the alleged offence in question is purely a commercial dispute between two Directors of the company which has been colored with criminality at the instance of the first informant.

6. In view of the above, this Court is of the considered view that, the custodial interrogation of the applicants for further investigation of the present crime is not necessary.

Interim relief granted by an Order dated 13.11.2018 is hereby confirmed.

7. Applications are allowed in the aforesaid terms.

(A.S.GADKARI, J.)