

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

CRIMINAL APPLICATION [APL] NO.19 OF 2018

[Niraj Suresh Joshi .vs. The State of Maharashtra and others]

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

Court's or Judge's orders

Shri Prasad Dharaskar, counsel for the applicant,
Shri A.M. Joshi, APP for the non-applicants.

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CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : APRIL 04, 2018.

By this criminal application, the applicant has sought for the quashing and setting aside of the first information report registered against the applicant under Sections 3 and 7 of the Essential Commodities Act, 1955.

The learned counsel for the applicant states that an order under Section 3 of the Essential Commodities Act, 1955 was not issued before the offence was registered against the applicant. It is stated that there is no reference in the first information report about any order under Section 3 of the Act being violated. It is stated that the issue involved in this application was also involved in Criminal Application No.492/2017 and others and the Division Bench at Aurangabad had quashed and set aside the first information report which did not make a reference to an order under Section 3 of the Act being violated.

Shri Ambarish Joshi, the learned Additional Public Prosecutor appearing for the non-applicants does not dispute that at the relevant time when the first information report was registered against the applicant, an order under Section 3 of the Essential Commodities Act, 1955 was not issued and the same is issued on 5.3.2018. It is also not disputed that the similar issue was decided in the aforesaid decision.

Since admittedly there is no reference in the first information report about the violation of a particular order issued under Section 3 of the Essential Commodities Act, 1955, the first information report is liable to be quashed and set aside by relying on the law laid down by this court in the judgment reported in 2017 (2) Bom. C.R. (Cri) 532 (Vijay M. Markand and others .vs. State of Maharashtra and others).

Hence, in view of the statements recorded hereinabove and for the reasons recorded in the judgment reported in 2017 (2) Bom. C.R. (Cri) 532, the Criminal Application is allowed. The first information report registered against the applicant for the offences punishable under Sections 3 and 7 of the Essential Commodities Act, 1955 is quashed and set aside. Order accordingly.

JUDGE

JUDGE

Gulande