

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 608 OF 2019.

1. Anjum Ibrahim Tambatkar (Name as per FIR) Yakub Anjum Mohammed Ibrahim Mulla (Correct Name)
age 62 years, Occ. Business, R/o. Shahaji Road, Tambatkar Galli, Ahmednagar, Tq. Nagar, Dist. Ahmednagar.
2. Mohammed Faiyaz Mohammedali Mattur (Name is not mentioned in FIR), Age 50 years, Occ. Business, R/o. Plot No. 12, Shahaji Road, Mukund Nagar, Ahmednagar, Tq. Nagar, Dist. Ahmednagar. ... **Applicants.**

VERSUS.

1. The State of Maharashtra.
Through Investigating Officer,
MIDC Ahmednagar Police Station,
Tq. Nagar, Dist. Ahmednagar.
2. Pravin s/o Prabhakar Khandagale,
Age Major, Occ. Service,
R/o. MIDC Ahmednagar Police
Station, Ahmednagar, Tq. Nagar,
Dist. Ahmednagar. ... **Respondents.**

...

Mr. Gore Ravindra Vitthal, Advocate for Applicants.
Mr. S.J. Salgare, APP for the respondents

**CORAM : T.V. NALAWADE &
MANGESH S. PATIL, JJ.**

DATE : 09.04.2019

ORAL JUDGMENT (PER T.V. NALAWADE, J):

1. Rule. Rule is made returnable forthwith. With the consent of the parties matter is taken up for final hearing at the stage of admission.
2. The proceeding is filed for relief of quashing of F.I.R. No. 33/2019 registered with MIDC Ahmednagar Police Station, District Ahmednagar, for the offences punishable under section 5(A)(B)(C), 9(A) of the Maharashtra Animal Preservation Act, 1976 and section 278 of the Indian Penal Code.
3. The crime is registered on the basis of report given by respondent No. 2, Police Officer that in the godown of present applicants skin of scheduled animal under Maharashtra Animal Preservation Act 1976(cow, bullock) was found. Samples of the skin were taken. It is confirmed that the skin was of the scheduled animal. After that the report was given and crime is registered.
4. The learned counsel for the applicants submitted that the skin was purchased from out side the Maharashtra State. Bills are produced to show that the skin was purchased from other State like Karnataka.
5. Learned counsel for the applicants placed reliance on the case decided by this Court like Criminal Application No. 364 of 2018 (Shaikh Najir Shaikh Umar V/s The State of Maharashtra) decided by this Court on 21.06.2018. He took this Court through para No. 4 of the said decision which is as under :

"4. The proceeding is filed on the ground that there was

no contravention of provisions of the aforesaid special enactment. The learned counsel for the applicant took this Court through relevant provisions of the Act and submitted that the raw skin of cattle is not covered under the aforesaid Act. Learned counsel for the applicant submitted that this Court had occasion to consider similar case and this Court has held that the skin is not covered under the provisions of aforesaid Act. Copies of the decisions given by this Court in Criminal Application No. 148/2017 (Abdul Hafeez v. State of Maharashtra) at Nagpur Bench and Criminal Application No. 664/2016 (Israrul Haq v. State of Maharashtra) at Nagpur Bench are produced. This Court has considered the provisions of the Act including the aforesaid provisions and this Court has held that for the possession of skin of dead animals there is no prohibition. By making such observations the F.I.R. was quashed in those proceedings. This Court holds that no different view is possible in the present matter also. So, the application is allowed. Relief is granted in terms of prayer clause (B). Rule is made absolute in those terms."

6. In view of the aforesaid position of law mentioned by this Court, this Court holds that it will be abuse of process of law if the applicants are directed to face the trial for aforesaid offences.

7. In the result, the application is allowed. Relief is granted in terms of prayer clause 'B'. Rule made absolute in those terms.

(MANGESH S. PATIL, J.)

(T.V. NALAWADE, J.)

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