

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NOS. 723 AND 724 OF 2018**

Sanjay Narayan Dhembare and ors.Applicants
versus
The State of Maharashtra and ors.Respondents

Mr. Uday P. Warunjikar, advocate for the applicants.
Mrs. Aruna S. Pai, APP for the State.
Mr. Deepak R. More, advocate for respondent No.2.

**CORAM : RANJIT MORE &
N. J. JAMADAR, JJ.**

DATE : 26^h AUGUST, 2019.

P. C. :

1. The criminal application Nos.723 and 724 are filed seeking quashment of proceedings of criminal complaint Nos.9 and 10 of 2003 respectively pending on the file of learned JMFC, Akurdi, District, Pune.

2. Both the complaints are filed by one Kiran Balwant Jadhav, Food Inspector of Pimpri Chinchwad Municipal Corporation. The applicants are the office bearers of a Co-operative Society viz. Indrayani Bazaar. Along with applicants, the directors, distributors and nominee of Cadbury India are also made accused in the above said complaints. The allegations against the accused in the said complaints is that they sold Cadbury Dairy Milk chocolates which were unsafe for human consumption. The Directors of Cadbury India had approached this Court

and filed criminal application Nos.5503 and 5505 of 2004 for quashing the said complaints on the ground that they are not responsible and the nominee is responsible for the said act. Both the applications came to be disposed of by learned Single Judge by order dated 3rd August, 2017. The learned Single Judge accepted the arguments of the Directors of Cadbury India and quashed and set-aside the proceedings of criminal case Nos.9 and 10 of 2003 qua them.

3. So far as the present applicants are concerned, they are the office bearers of the Co-operative Society, which was running Indrayani Bazaar. It is alleged that the complainant purchased Cadbury milk chocolate from Indrayani Bazaar and the same was found unsafe for human consumption. As stated above, the learned Single Judge in criminal application Nos.5503 and 5505 of 2004 held that the Directors of Cadbury India cannot be held responsible and only nominee is responsible.

4. If that be so, the present applicants, who are the Directors of the Co-operative Society which is run by name Indrayani Bazaar, from which, the complainant purchased Cadbury milk chocolate which was found to be unsafe for human consumption cannot be held responsible. The applicants are entitled to claim parity and, therefore, in our considered opinion, the proceedings of the criminal complaint Nos.9 and

10 of 2003 respectively are required to be quashed and set-aside qua them. The criminal applications are, accordingly, allowed in terms of prayer clause (a) and disposed off as such.

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]