

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3970 OF 2019

Ramesh Nandkumar Dandale & Ors.Petitioners
Versus
The State of Maharashtra & Ors.Respondents

Mr. S.P. Joshi i/b. N.J. Mohite, Advocate for the Petitioners.
Mrs. A.S. Pai, APP for the Respondent-State.

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

DATE : 22nd AUGUST, 2019.

P. C. :

1. The facts and issues involved in these petitions are similar to the facts and issues involved in writ petition No.3978 of 2019. By speaking order dated 22nd August, 2019, we disposed of the said petition.

2. For the reasons passed in support of the order dated 22nd August, 2019 in writ petition No.3978 of 2019, the instant petitions are also disposed of with following directions :

- 1) As long as the petitioners comply with the provisions of COTPA and do not serve any prohibited substance in the hookah parlour then no action can be taken against them. However, it is made clear that if it is found that the petitioners are selling/using any substance prohibited under the COTPA then surely an action can be taken against them.

- 2) In case, there is any infraction of the provisions of the COTPA as amended in the year 2018, the police officer, not below the rank of the Assistant Police Inspector, is empowered to take legal action for the infringement of the conditions imposed under COTPA act as well as taking action on the hookah parlours where drugs/narcotics are provided and consumed which falls under the purview of Police Department.
3. In this petition, however, the petitioners have been issued notice under Section 149 of the Code of Criminal Procedure, 1973 directing not to run hookah bar. Since it is the specific case of the petitioners that they are running herbal hookah and they undertake not to use tobacco or nicotine, we quash the said notice.

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]