

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

LD VC CRI. APPLICATION (APPP) NO. 452 OF 2020

IN

LD VC CRI. APPLICATION (APL) NO. 692 OF 2019

(RITESH RAJKUMAR TOSHNIWAL..VS..STATE OF MAH. THR. PSO TAHSIL, DIST. NAGPUR.)

WITH

LD VC CRI. APPLICATION (APPP) NO. 453 OF 2020

IN

LD VC CRI. APPLICATION (APL) NO. 553 OF 2019

(YOGESH RAMSINGH TOMAR KHAIRU..VS..STATE OF MAH. THR. PSO TAHSIL, DIST. NAGPUR.)

WITH

LD VC CRI. APPLICATION (APPP) NO. 454 OF 2020

IN

LD VC CRI. APPLICATION (APL) NO. 661 OF 2019

(RAMKISAN PATRAM BISHNOI..VS..STATE OF MAH. THR. PSO TAHSIL, DIST. NAGPUR.)

WITH

LD VC CRI. APPLICATION (APPP) NO. 455 OF 2020

IN

LD VC CRI. APPLICATION (APL) NO. 715 OF 2019

(MOHAMMAD ASIF HAJI HUSSAIN..VS..STATE OF MAH. THR. PSO TAHSIL, DIST. NAGPUR.)

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

Court's or Judge's orders

Shri S.A.Mohta, Advocate for Applicants.
Shri M.K.Pathan, A.P.P. for Non-applicants/State.

CORAM : Z.A.HAQ & N.B.SURYAWANSHI, JJ.

DATED : JUNE 23, 2020.

1. In all these matters the applicants have prayed that the First Information Reports registered for the offences punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code read with Section 26(2)(i), 26(2)(iv), 27(2)(e) and 59 of the Food Safety and Standards Act, 2006 be quashed, the substantive challenge being that the allegations in the First Information Report does not spell-out offences punishable under the provisions of the Food Safety and Standards Act, 2006 and the Rules framed under it and consequently the offences under the Indian Penal Code are also not spelt-out.

2. This Court directed issuance of notice to the non-applicants, and finding *prima-facie* substance in the submissions made on behalf of the applicants, granted an interim order directing that charge-sheet shall not be filed in the matters against the applicants without seeking leave of the Court.

3. Now, the non-applicant No.2 has filed Criminal Application Nos.452/2020, 453/2020, 454/2020 and 455/2020 seeking modification/clarification of the interim order. The non-applicant No.2, relying on the judgment given by the Hon'ble Supreme Court in **Criminal Appeal No. 1196 of 2018** and connected matters (*The State of Maharashtra & Anr. ..vs.. Sayyed Hassan Sayyed Subhan & Ors.*) on 20th September 2018, contends that it is open for the non-applicant No.2-Food Safety Officer to independently file complaint before the Competent Court for prosecution for the offences punishable under the provisions of the Food Safety and Standards Act 2006. The learned A.P.P. further submitted that the investigation in all the matters is complete and charge-sheets are ready and can be filed if the interim order passed by this Court on 8th July 2019 is vacated.

4. After hearing the learned Advocate for the applicants in all these matters and the learned A.P.P., we are of the view that this Court, while granting interim order on 8th July 2019, permitted the non-applicants to go on with the investigation and as the investigation is now complete and charge-sheets are ready, and considering the facts of the case, it would not be appropriate for this Court to delve into the

issues raised by the applicants at this stage. In our view, the interests of justice would be sub-served by passing the following order:

- i) Criminal Application No.452/2020, Criminal Application No.453/2020, Criminal Application No.454/2020 and Criminal Application No.455/2020 are **allowed**.
- ii) The Investigating Agency shall file charge-sheets, as assured, within one month from today.
- iii) The non-applicant No.2-Food Safety Officer will be at liberty to file complaint under the provisions of the Food Safety and Standards Act, 2006.
- iv) As we have not delved into the issues raised by the applicants, it will be open to the applicants to avail appropriate remedy for redressal of their grievances, as per law after filing of the charge-sheets.

The Criminal Applications are **disposed** in the above terms.

(N.B.SURYAWANSHI, J)

(Z.A.HAQ, J.)