

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

CRIMINAL APPLICATION (ABA) NO.645 OF 2020

(Ramesh Gunaji Nagre and another Vs. State of Maharashtra thr. PSO PS Andhera,
Tq. Deulgaon Raja, Dist. Buldhana)

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

Court's or Judge's orders.

Mr. K.S. Narwade, Advocate for Applicant.
Mr. J.Y. Ghurde, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.
DATE: 29th OCTOBER, 2020.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2] Heard.

3] The applicants are apprehending arrest in Crime 305/2020 registered with the Police Station Andhera, Tq. Deulgaon Raja, Dist. Buldhana for offence punishable under section 379 read with section 34 of the Indian Penal Code and section 3 and 4 of the Prevention of Damage to Public Properties Act, 1984.

4] The first information report is lodged by Mr. Akshay Kailas Gaikwad, who is working as Section Engineer, National Highway, Sub-Division, Khamgaon.

The report is lodged as directed by the Executive Engineer Mr. Raosaheb Zalte.

5] Mr. Raosaheb Zalte, vide communication dated 30.08.2020, directed the informant to lodge the report. The gist of the report is that when Mr. Raosaheb Zalte was proceeding from Jalna to Akola, at 11:00 p.m. on 30.08.2020 he noticed that the applicants, who are the owners of Vijay Hotel, had broken 40 meters road divider with the intention of having a direct access to the highway. The applicants did not stop at that. In the presence of Mr. Zalte the applicants dug up the road and loaded the construction material in a dumper. The details of the JCB used in digging the road and the dumper used to carry away the material are mentioned in the report.

6] The first submission of Mr. Narwade is that the report is delayed. *Prima facie*, the delay is explained. Immediately after the incident Mr. Zalte directed the informant, who was the Engineer In-charge of the work, to lodge a police report. The effect of the informant lodging the report on 08.09.2020 is a matter to be considered in the trial. It cannot be said, at this stage, that the alleged delay falsifies the report.

7] Mr. Narwade then points out a communication dated 07.08.2020 addressed by the Forest Department to the Chief Secretary seeking sanction under section 197

Cr.P.C. to prosecute Mr. Raosaheb Zalte. The sanction to prosecute Mr. Raosaheb Zalte is sought on the premise that the National Highway Authority, Akola took up the road widening work in forest area without the necessary permission. It is difficult to appreciate the submission of Mr. Narwade that the report against the applicants has nexus with the said letter seeking sanction under section 197 Cr.P.C.

8] The learned Sessions Judge has noted that the vehicle used and the stolen material is to be recovered. In any event, considering the nature of accusations, no discretion can be exercised in favour of the applicants.

9] The application is dismissed.

JUDGE