

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 917 OF 2021
WITH
WRIT PETITION NO.919 OF 2021

AKSHAY KAMAL MITTAL ..PETITIONER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER ..RESPONDENTS

...
Advocate for Petitioner : Mr. Anand P. Bhandari
APP for Respondent No.1 – State : Smt. G. L. Deshpande
Advocate for Respondent No.2 : Mr. Ambar S. Barlota
...

CORAM : N. R. BORKAR, J.

DATE : 25-10-2021

PER COURT :-

By these petitions exception is taken to the common order dated 03-08-2021 passed by the learned Additional Sessions Judge, Aurangabad, in Criminal Revision Applications No. 108 and 107 of 2021.

2. The respondent No.2 herein had lodged the report with M.I.D.C. CIDCO Police Station, Aurangabad alleging that on 03-05-2021, he received the order to deliver cotton bales from M.S.W.C. Godown, MIDC, Chikalthana to Trident Yarn, Budhani, Madhya Pradesh. Accordingly, consignment was loaded on 04-05-2021 in Truck bearing registration No. MH-18-BA-7861 and

it was expected to reach Budhani on 12-05-2021. The consignee was contacted and it was found that consignment did not reach to the consignee. The report was thus lodged. During the course of the investigation, it was found that the goods in question were given to one Arpit Banwarilal Garg and he sold the goods in question to the petitioner. It was also found that the petitioners sold the goods to M/s G. M. Cotton Fibers and from the M/s G.M. Cotton Fibers goods in question came to be seized. Two applications one by petitioner and another by respondent No.2 were filed before the learned Magistrate for return of goods in question. The learned Magistrate by the common order was pleased to allow the application filed by the respondent No.2 and rejected the application filed by the petitioner. The petitioner filed two revision petitions before the Sessions Court Aurangabad. Both the revision petitions came to be dismissed by the order impugned.

3. I have heard the learned counsel for the petitioner and learned APP for respondent No.1 - State as well as learned counsel for the respondent No.2.

4. It is the case of petitioner that the seized goods were purchased from Shree Shyam Corporation, Indore and then they were sold to M/s. G.M. Cot Fibers, Sendhwa (MP). The petitioner,

in support of his case has produced on record tax invoices of Shree Shyam Corporation. The said tax invoice shows that the goods were dispatched from Indore to Dhule.

5. Learned counsel for respondent No.2 submits that the tax invoice is manufactured document and thus cannot be relied upon. It is submitted that as per Rule 138 of the GST Rules, every registered person who causes movement of goods of value more than Rs. 50,000/- is required to generate e-way bill prior to commencement of movement of goods from GST Portal. It is submitted that the petitioner has not produced E-way bill on record in relation to transaction between him and Shree Shyam Corporation. It is submitted that in absence of E-way bill the case of the petitioner cannot be accepted.

6. On the last date, the learned counsel for the petitioner sought time to take instructions from his client and to produce if e-way bill is there in respect of transaction between him and Shri. Shyam Corporation. Today, the learned counsel for the petitioner submits that there is no e-way bill in respect of the said transaction. The learned counsel for the petitioner has however, tendered notification dated 24th April 2018 issued by the Government of Madhya Pradesh which states that no e-way bill shall be required to be generated for intra-state movement of

goods in the State of Madhya Pradesh except for the goods mentioned therein. It is not understood as to how this notification could be relied, which is in relation to intera-State movement for the transaction, which is not the intra-state transaction. In tax invoice place of dispatch is Indore which is in the state of Madhya Pradesh to Dhule which is in the State of Maharashtra. Considering the over all circumstances, the claim of the petitioner appears to be doubtful. No interference is thus called for in the orders impugned.

7. Both the criminal writ petitions are therefore dismissed.

8. Request to continue the interim relief granted by order dated 08-09-2021 is rejected.

(N. R. BORKAR)
JUDGE

rrd