

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO.2087 OF 2020

GANESH BAPURAO CHAKOR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Satish M. Kshirsagar.

APP for Respondent/State: Mr. A. S. Shinde.
...

CORAM : T. V. NALAWADE &
B. U. DEBADWAR, JJ.

DATE : 21st January, 2021.

ORDER: (Per T. V. Nalawade, J.)

. The present proceeding is filed for relief of quashing of C.R. No.2 of 2020, registered with Parbhani (Rural) Police Station, District Parbhani, for the offences punishable under Sections 353, 379, 506, 323 read with 34 of the Indian Penal Code.

2 Heard the learned counsel for Applicant and the learned APP. The papers of investigation were made available for perusal by the learned APP.

3 The crime is registered on the basis of report given by public servant, Tahsildar. According to him, on 11th January, 2020 at about 17:00 hours when he and his staff had gone to bed of river

Purna as there was information about illegal excavation and theft of sand, they noticed that five to six tractors were there and many persons were excavating the sand. It is contended that when he and his staff members asked them to stop as they were carrying the sand in tractor and trolley and some tractors were stopped, but some tractors were taken away in speed by those persons.

4 It is contended that they could stop two tractors on which no RTO numbers were fixed and when they were on the spot, village Sarpanch Murlidhar Chakor of Mategaon came there and he questioned as to how they had intercepted his tractors. It is his contention that when he informed that the tractors were being used for carrying the stolen sand, he picked up quarrel and even pushed and pulled the Tahsildar and his staff members. It is contended that then by giving threats and by using force, he went to his tractor with his driver and he said that he was taking away his tractor and nobody can prevent him. It is his contention that upto some distance they gave chase to this tractor and the sand which was present in the trailer was then emptied in the way by them and then Murlidhar went away with the tractor. It is contended that when they went to village, 30 to 32 persons were collected by Murlidhar and they intercepted Tahsildar and others and they created obstruction when Tahsildar and others were discharging the public duty.

5 The present proceeding is filed by one Ganesh Chakor and it is the contention of the State that he was on driver's seat when Murlidhar took away the tractor from the aforesaid spot. This Court has seen the papers of investigation and they show that there is supplementary statement of Tahsildar, informant to the effect that he had seen carefully the driver of this tractor, present Applicant and he can identify him. The name of this Applicant was informed subsequently and then supplementary statement was recorded. Photograph of the present Applicant was shown to the Tahsildar and he identified the Applicant from that photograph.

6 The learned counsel for Applicant submitted that the test identification parade was not held and so the prosecution cannot succeed if the case is filed against the Applicant. This submission is not at all acceptable. The incident took place at about 17:00 hours in the month of January 2020 and there is a version of Tahsildar of aforesaid nature and his staff members were also there. The Applicant was driver of Murlidhar and Murlidhar was known to these persons. Opportunity needs to be given to the informant and other witnesses to identify the present Applicant when the case is tried for aforesaid offences against Murlidhar and Applicant. Thus, it cannot be said that there is no material at all against the Applicant to prove the offence.

The police papers contain other material like *Panchanama* and statements of other witnesses, which corroborate the version of Tahsildar. In the result, the following order is passed:

ORDER

The application stands dismissed.

[B. U. DEBADWAR, J.]

[T. V. NALAWADE, J.]

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