

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Application No. 154 / 2021

Vijay Ashok Dalvi and Anr. .. **Applicants**

Versus.

The State of Maharashtra .. **Respondent**

Mr. R. Sathyanarayanan, Advocate for the Applicants.

Mr. A.D. Khamkhedkar, APP for State.

Mr. Sangram Bagal, P.S.I., Vakola Police Station.

CORAM : SANDEEP K. SHINDE J.

DATE : 07th SEPTEMBER, 2021.

P.C. : -

Heard.

1. Applicants have invoke the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 to challenge "proclamation" dated 31st December, 2015 and standing non-bailable warrants dated 13th October, 2020, issued against them in case no. 352/PW/2007, pending in the Court

of learned Magistrate 71st Court, at Bandra.

2. The Applicants are Accused Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 33, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 49, 50, 51, 52, 53, 54, 55, 56, 57, 59, 60 and 61 in the case no. 352/PW/2007 (case for short).

3. On 17th July, 2006, FIR No. 396/2006 was lodged by one Suryakant Salvi, Sub Inspector attached to Bandra Police Station under Sections 143, 147, 149, 332, 353 of the Indian Penal Code, 1860 and Section 37(3) and 135 of the Bombay Police Act, against sixty one persons. The Applicants and Co-accused were employed with the MCGM as a casual labour. They were members of Kachra Vahatuk Shramik Sangh. On 17th July, 2006, Applicants had organized a demonstration outside MCGM H/E Ward Office against the Corporation. The subject FIR arose out of

demonstration organized by the Union. Be that as it may, the Roznama produced before me, shows that without following the procedure contemplated under Section 82 of the Code of Criminal Procedure, the proclamations were issued in September, 2018. Nevertheless, Roznama shows there was no material on record to infer that the Applicants were concealing themselves, so as to avoid execution of warrant. In fact, warrants were also not issued. Prosecution fairly admits this fact. Thus, it is a case of non-compliance of Section 82(1) and 82(2) of the Cr.P.C.

4. In consideration of the facts of the case and for the reasons stated, the proclamations and the standing warrants issued against the Applicants in the case no. 352/PW/2007 are recalled and quashed. The application is allowed in terms of prayer clause (a) and (b).

5. Learned Counsel for the Applicants undertakes

that the Applicants shall remain present before the learned Magistrate on the next date of the hearing. Statement is accepted as an Undertaking to this Court.

6. Application is allowed and disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)

MOHAMMAD
NAJEEB
MOHAMMAD
QAYYUM

Digitally signed
by MOHAMMAD
NAJEEB
MOHAMMAD
QAYYUM
Date:
2021.09.09
17:20:24 +0530