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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1338 OF 2019

Tushar Mohan Kalbhor .. Applicant
v/s.
The State of Maharashtra & Anr. .. Respondents
....

Ms. Vrushali Maindad, a/w. Ms. Ankita Nishad, for the Applicant.

Mrs. M.H. Mhatre, A.P.P., for State.
....

**CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.**

DATE : 25 OCTOBER 2021.

P.C:-

By this application, the Applicant has sought to quash the FIR dated 18 August 2019 registered with Chiplun Police Station in C.R. No.210 of 2029 under Sections 406, 420 read with Section 34 of IPC.

2. The FIR was lodged by the Manager of Chiplun S.T. Depo stating that the purchase of 12,000 litres of diesel is done from the Indian Oil Corporation Pune and the Indian Oil Corporation sends diesel tanker to Chiplun. It was stated by the Informant that when the

tanker arrives, it is examined as to the paper work and fuel affects. In the FIR, the Manager has stated that the label of the fuel in the tanker is also examined. He stated that on 17 August 2019, the tanker arrived from the Indian Oil Corporation through Vyankatesh Transport Suppliers and when it was being unloaded, the Manager found that the activities were suspicious and the fuel was being siphoned off and the State Transport Corporation was, accordingly, defrauded.

3. The charge-sheet has been filed. The learned Counsel for the Applicant contended that the Applicant was not in possession of the vehicle. It was sought to be argued that the Applicant is not the owner of the vehicle. It was also sought to be argued that if the material is seen, no offence is made out.

4. We have to examine the prayer for quashing of FIR within the well settled parameters and to ascertain whether this is a case where the FIR and charge sheet be quashed and no further proceedings are necessary. As regards the ownership aspect is concerned, the vehicle is in the name of the Applicant. The exact role of the Applicant and the defences of the Applicant as to whether he was in conscious possession or not are matters of trial. It cannot be said by reading of the FIR and the material that no offence whatsoever is made out and the proceedings are an abuse of law. If the Applicant is right in his contention he will have ample opportunity to demonstrate during the trial. No case is made out under Section 482 for exercising the inherent

jurisdiction under the Code of Criminal Procedure. The application is, accordingly, rejected.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)