

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 307 OF 2021

APPLICANT :-

Shri Sandipsingh S/o Gurucharan Singh,
Aged about 32 years, Occu-Transport
Business, R/o. House No.792, Pali Niwas,
Old M.S.E.B. Office, Lashkaribagh, P.S.
Panchpaoli, Nagpur.

...VERSUS...

NON-APPLICANTS :- 1. State of Maharashtra, Through Kalamana
Police Station, Nagpur.

2. Shri Amit Supchand Ratre, Aged about :
22 Yeras, Occupation : Business, R/o.
Minimata Nagar, Plot No.796, Near
Anand Choubey School, Kalamana,
Nagpur.

Mr.Y. B. Mandpe, Advocate for the applicant.

Mr.T.A.Mirza, A.P. P. for non-applicant No.1.

None for non-applicant No.2.

CORAM : Z.A.HAQ AND AMIT B. BORKAR, JJ.

DATED : 20.04.2021.

ORAL JUDGMENT : (Per : Amit B. Borkar, J.)

1. Heard.

2. **Rule.** Rule is made returnable forthwith.

3. The applicant has filed the present application under section 482 of the Code of Criminal Procedure challenging registration of First Information Report No.794 of 2019, dated 22/10/2019, and consequent charge-sheet bearing Regular Criminal Case No.3316 of 2020 for the offences punishable under sections 3, 8, 11(i)(d)(e)(f) of the Prevention of Animal Cruelty Act, 1960 read with section 5, 5(a), 9(a) of the Maharashtra Prevention of Animal Cruelty (Amendment) Act, 1955 read with sections 83 and 177 of the Motor Vehicles Act and order dated 21/03/2020 passed in Miscellaneous Criminal Application No.375 of 2020.

4. The First Information Report came to be registered against the applicant with the accusations that on 22/09/2019 at about 11.00 am when non-applicant No.2 was standing along with his friends, he noticed that one Truck bearing No.CG-04 JA-8845 coming from Bhadara side and he suspected that animals were being transported in the said truck. It is alleged that non-applicant No.2 with the help of his friends stopped the truck and noticed around 40 cows in the truck. Upon enquiry, the driver ran away. During the investigation, it was found that there were 21 cows and 10 bullocks in the truck. Investigating Agency noticed 7 animals to be dead. The Investigating Officer completed investigation and filed charge-sheet against the applicant.

5. The applicant has therefore, challenged the charge-sheet along with registration of FIR. This Court on 22/02/2021 issued notice to the non-applicants and granted interim order staying proceedings of Regular Criminal Case No.3316 of 2020. The applicant has also challenged order dated 21/03/2020 passed in Miscellaneous Criminal Application No.375 of 2020, directing applicant to deposit an amount of ₹ 125/- per day towards maintenance of live stock from the date of seizure of live stock till the filing of the application before the Judicial Magistrate First Class, Court No.3.

6. The non-applicant No.1 has filed reply and pointed out that during the course of investigation, the Investigating Officer has recorded statements of witnesses and found that the truck carrying animals belongs to the applicant. It is also stated that PAN card of the applicant was seized from the vehicle, which shows involvement of the applicant in the crime. It is also stated that though the applicant has mentioned that he has given the truck on rent to co-accused Rafique Khan, the applicant has not placed said agreement on record.

7. We have carefully considered the allegations in the said FIR. On careful consideration of the material on record, it appears that it is undisputed that the applicant is the owner of the truck in question. Though the applicant has stated that the said truck was given on rent by

the applicant to one Mr. Rafique Khan, the said fact cannot be gone into at this stage and the applicant needs to be prove the said contention in the trial.

8. The applicant has also challenged the order dated 21/03/2020 directing the applicant to deposit ₹ 125/- per day for the maintenance charge of live stock. The applicant has invited our attention to communication by Police Sub-Inspector, Police Station Kalamana to the Manager of Radhakrishna-Saidham Gaushala, Bidgaon Road, Bhandewadi, Nagpur. From the said communication, it appears that 40 live stock had been handed over to the said Gaushala. Once the live stock is in possession of Radhakrishna-Saidham Gaushala, in our opinion, the learned Magistrate was not justified in directing the applicant to deposit ₹ 125/- per day towards maintenance charges of live stock.

9. We, therefore, pass the following order:

- i) The application is partly allowed.
- ii) The prayer for quashing of proceedings bearing Regular Criminal Case No.3316 of 2020 arising out of First Information Report No.0794 of 2019 dated 22/10/2019 is dismissed.

- iii) The order passed by Judicial Magistrate First Class, Court No.3 dated 21/03/2020 in Criminal Miscellaneous Application No.375 of 2020 to the extent it directs the applicant to deposit ₹ 125/- per day towards maintenance charges of live stock is quashed and set aside.
 - iv) Rest of the order dated 21/03/2020 passed by the Judicial Magistrate First Class, Court No.3, Nagpur is confirmed.
10. Rule is made partly absolute in the above terms.

(AMIT B. BORKAR, J)

(Z.A.HAQ, J)