

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR

CRIMINAL APPLICATION (APL) NO. 307/2018

1. Aslam Pervej S/o. Vakil Ahmad,
Age : 25 years,
Occupation : Agriculture/Business.

2. Akil Ahmad S/o. Vakil Ahmad,
Age : 30 years,
Occupation : Agriculture/Business,
Both R/o. Deshmukh Pura, Warud,
Tq. Warud, District : Amravati.

... **APPLICANTS**

...V E R S U S...

1. The State of Maharashtra,
Through Police Station Officer
of Police Station, Warud,
Tq. Warud, Dist. Amravati.

2. Sujit U. Kamble, API
Age : Major,
C/o. Police Station, Warud,
Tq. Warud, Dist. Amravati.

... **NON-APPLICANTS**

WITH

CRIMINAL APPLICATION (APL) NO. 308/2018

1. Aslam Pervej S/o. Vakil Ahmad,
Age : 25 years,
Occupation : Agriculture/Business.

2. Akil Ahmad S/o. Vakil Ahmad,
Age : 30 years,
Occupation : Agriculture/Business,
Both R/o. Deshmukh Pura, Warud,
Tq. Warud, District : Amravati.

... **APPLICANTS**

...VERSUS...

1. The State of Maharashtra,
Through Police Station Officer
of Police Station, Warud,
Tq. Warud, Dist. Amravati.

2. Kailas Sandy Ghatte, API
Age : Major,
C/o. Police Station, Warud,
Tq. Warud, Dist. Amravati.

... **NON-APPLICANTS**

WITH**CRIMINAL APPLICATION (APL) NO. 309/2018**

1. Aslam Pervej S/o. Vakil Ahmad,
Age : 25 years,
Occupation : Agriculture/Business.

2. Akil Ahmad S/o. Vakil Ahmad,
Age : 30 years,
Occupation : Agriculture/Business,
Both R/o. Deshmukh Pura, Warud,
Tq. Warud, District : Amravati.

... **APPLICANTS**

...VERSUS...

1. The State of Maharashtra,
Through Police Station Officer
of Police Station, Warud,
Tq. Warud, Dist. Amravati.

2. Sujit Uday Kamble, API
Age : Major,
C/o. Police Station Warud,
Tq. Warud, Dist. Amravati.

... **NON-APPLICANTS**

WITH

CRIMINAL APPLICATION (APL) NO. 310 /2018

1. Aslam Pervej S/o. Vakil Ahmad,
Age : 25 years,
Occupation : Agriculture/Business.
2. Akil Ahmad S/o. Vakil Ahmad,
Age : 30 years,
Occupation : Agriculture/Business,
Both R/o. Deshmukh Pura, Warud,
Tq. Warud, District : Amravati.

... **APPLICANTS****...V E R S U S...**

1. The State of Maharashtra,
Through Police Station Officer
of Police Station, Warud,
Tq. Warud, Dist. Amravati.
2. Priya Sahebrao Umale, PSI
Age : Major,
C/o. Police Station Warud,
Tq. Warud, Dist. Amravati.

... **NON-APPLICANTS**

Shri R. J. Mirza, Advocate a/w. Rahul Vyawahare, Advocate for Applicants.
Shri N. S. Rao, A.P.P. for Non-applicant No.1/State.

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

DATED :- 29.01.2021

**CRIMINAL APPLICATION (APPP) NO.150/2021
And
CRIMINAL APPLICATION (APPP) NO.151/2021**

By these applications the applicants have sought
amendment of the Criminal Applications to challenge Charge-
Sheet/Final Report Nos.116/2018 and 118/2018.

For the reasons stated in the applications, the applications are allowed.

The applicants to carry out the amendment forthwith.

ORAL JUDGMENT (PER: AMIT B. BORKAR, J.) :-

1. Heard.
2. **Rule.** Rule is made returnable forthwith.
3. By these applications under Section 482 of the Code of Criminal Procedure, the applicants have challenged registration of the First Information Report and in Criminal Application (APL) Nos.307 and 309 of 2018 the filing of charge-sheet against the applicants for the offences punishable under Section 11(1)(c) of the Prevention of Cruelty to Animals Act, 1960, Sections 5A and 9 of the Maharashtra Animal Preservation (Amendment) Act, 1995, Section 119 of the Maharashtra Police Act, 1951 read with Section 34 of the Indian Penal Code.
4. Since the allegations in the First Information Report and the material in the charge-sheet are similar and the applicants are same, we are disposing of all the Criminal Applications by common judgment.

5. The First Information Report in all the Criminal Applications came to be filed against the applicants and others with the accusations that the applicants in connivance with other accused were found treating bulls with cruelty while carrying them for the purpose of slaughtering.

6. In Criminal Application Nos.307 and 309 of 2018, charge-sheet came to be filed against the applicants. The applicants have therefore, challenged registration of the First Information Report.

7. This Court issued notice in all applications and the non-applicant No.1 has filed replies. It is stated that on 08.03.2018, the Investigating Agency had received secret information that some persons have been transporting cattles. Accordingly, the police party went to the site and found two persons i.e. employees of applicants were carrying bulls by road. It is stated in the reply that the applicants are the owners of the cattle and therefore, the applicants are also liable for the acts committed by their employees. It is therefore, stated that there is sufficient material against the applicants of their involvement in the crime alleged against them and therefore, it is prayed that the Criminal Application is liable to be dismissed.

8. We have carefully considered the allegations in the First Information Report and the material in the form of charge-sheet in Criminal Application Nos.307 and 309 of 2018.

9. On overall consideration of the accusations in the First Information Report and the material in the form of charge-sheet in Criminal Application Nos.307 and 309 of 2018, the principal accusation is to the effect that the employees of the applicants have meted cruelty to the bulls in question. Undisputedly, the applicants are owners of the bulls in question. There is no allegations in the First Information Report or the material produced in the form of charge-sheet that the applicants were present at the site when the alleged cruelty was meted to the animals in question. In absence of the accusation that the applicants have personally caused cruelty to the animals, we do not find that the ingredients of the offences under Section 11 of the Prevention of Cruelty to Animals Act, 1960 are fulfilled. The other offences which are alleged against the applicants are under Section 119 of the Maharashtra Police Act, 1951 and Section 34 of the Indian Penal Code. After having considered the allegations in the First Information Report and the other material placed on record by the prosecution, we are satisfied that there are no accusations or material which fulfill the ingredients of the offences alleged against the applicants.

10. In the facts of the case, for the alleged cruelty by the employees, the owner of animals cannot be held responsible unless there is specific allegation to that effect in the First Information Report or other material in the charge-sheet. We are therefore, satisfied that the prosecution against the applicants cannot be continued as the same would amount to abuse of process of Court.

11. We therefore, pass the following order.

The First Information Reports bearing Nos.141/2018, 142/2018, 144/2018 and 143/2018 dated 08.03.2018 registered against the applicants with the non-applicant No.1 – Police Station for the offences punishable under Section 11(1)(c) of the Prevention of Cruelty to Animals Act, 1960, Sections 5A and 9 of the Maharashtra Animal Preservation (Amendment) Act, 1995, Section 119 of the Maharashtra Police Act, 1951 read with Section 34 of the Indian Penal Code and consequent Charge-Sheet/Final Report No.116/2018 in Criminal Application (APL) No.309/2018 and Charge-Sheet/Final Report No.118/2018 in Criminal Application (APL) No.307/2018 dated 23.04.2018 and consequential proceedings of S.C.C.No.563/2018 and 565/2018 pending before the learned Judicial Magistrate First Class, Warud to the extent of present applicants -

Aslam Pervej Vakil Ahmad and Akil Ahmad Vakil Ahmad are quashed and set aside.

12. Rule is made absolute in the above terms.

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