

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

Criminal Application (ABA) No.589/2020

Pranay Dhote V State of Maharashtra
and

Criminal Application (ABA) No.209/2020

Satish Dhandre V State of Maharashtra

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S.V. Sirpurkar, Shri Mahesh Rai, Advs for applicants.
Mrs Shamsi Haider, APP for State.

CORAM : S.M. MODAK, J.

DATE : 01st JULY, 2021.

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. On the last date, I have heard learned Advocate Shri Sirpurkar and learned APP at great length. Today, I have heard learned Advocate Shri Mahesh Rai.

3. Already this Court has granted interim protection to both these applicants as per the order dated 30-03-2020 and 05-10-2020.

4. Both these applicants obstructed the first informant on 03-03-2020 while discharging his official duty. The first informant is the Police Inspector attached to Rajura Police Station. While on patrolling duty, he got a information that a tractor loaded with a sand is coming towards Arvi village from Sumthana forest. The tractor was unnumbered. It is further alleged that applicant-Satish

came in a Scorpio vehicle and by using force got released the tractor. He also threatened the first informant.

5. Accordingly, FIR is lodged under Sections 353, 506 read with Section 34 of the Indian Penal Code at Rajura Police Station.

6. While granting interim protection, this Court has directed the applicants to give attendance to the Police Station. There is a reply filed on behalf of the prosecution. It is also mentioned that applicant-Satish has not cooperated the Police and also declined to sign the seizure memo of the tractor. It is also mentioned that they have yet to seize the Scorpio.

7. It is submitted on behalf of learned Advocate Shri Sirpurkar for applicant-Salish that he is not the owner of the tractor and he will attend the Police Station as directed by this Court.

8. It is true that already Police have seized the tractor. There are two facts. One is about transporting the sand from the forest in a tractor which is already seized and second is obstructing the first informant in discharge of his official duty. So far as the incident of transporting the sand from the forest is concerned, the present offence does not deal with that. It is only restricted to obstructing the official duty. When that is an issue, this Court feels that the ad-interim protection needs

to be confirmed.

9. It is submitted that the investigation is on the verge of completion.

10. If we go by the FIR, it is clear that prior to arrival of applicant-Satish, the Police have already taken the Tractor into their custody. Even if applicant-Satish has refused to sign the seizure memo, the Police can still complete the seizure memo by putting necessary remark. So far as the seizure of the Scorpio is concerned, it is an allegation that in that Scorpio applicant-Satish came to the spot.

11. In an offence vehicle can be seized if it is a property of theft or if it is a property which is used by the accused persons while committing the offence. In this case, the Scorpio is not the subject matter of the theft but, it is a vehicle used for coming to the spot. I think so far as the ownership of the Scorpio is concerned, the Police can very well collect the information from the concerned R.T.O. Office. Even the learned Advocate Shri Sirpurkar disputed the presence of applicant-Satish to the spot. However, this Court certainly can direct him to cooperate with the Police in ascertaining the ownership of the Scorpio. Hence, the following order is passed :-

ORDER

- (a) The ad-interim protection granted on 05-10-2020 in Criminal Application (ABA) No.589/2020 is confirmed.
- (b) The ad-interim protection granted on 30-03-2020 in Criminal Application (ABA) No.209/2020 is confirmed.
- (c) Both the applicants are directed not to threaten the prosecution witnesses.
- (d) Both the applicants are directed to cooperate with the Police in ascertaining the ownership of the Scorpio as well as Police can collect the information from the concerned R.T.O. Office.

12. Both the applications are disposed of.

JUDGE