

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.211 OF 2021

Arvind Ramchandra Patil

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

....

Mr. Uday Warunjikar for the Applicant.

Mr. J.P. Yagnik, APP for Respondent No.1-State.

CORAM : PRASANNA B. VARALE &

ANIL S. KILOR, JJ.

DATED: 11th JANUARY, 2022.

P.C.:-

1. Heard Mr. Warunjikar, learned counsel appearing for the Petitioner and Mr. Yagnik, learned APP for Respondent -State.

2. Considering the limited issue raised in the application, i.e. non-application of the mind of the Authorities as well as non-action on the part of the Respondent-State Authorities, we deem it proper to take up the application for hearing /disposal at the admission stage with consent of learned counsel appearing for the Applicant as well as learned APP for Respondent Nos.1 and 2.

3. Perusal of the application and the material annexed to the application reveals that the Applicant after his satisfactory completion of service started practising law, post his retirement. Mr. Warunjikar, learned counsel for the Applicant invited our attention to the contentions raised in the application as well as the documents placed on record to submit that the Applicant being an alert and responsible citizen found that there was a loud noise of bursting fire crackers and this act of loud noise of bursting fire crackers was an act of breach of the provisions of the Environment (Protection) Act, 1986 and Rules thereunder as well as Noise Pollution (Regulation and Control) Rules, 2000 amended in 2000. This bursting of crackers in loud voice was near an area viz. Yash Lawns. The Applicant was not aware of those persons, who were indulged in the act of bursting the fire crackers but as the act itself was in breach of provisions of law, the Applicant immediately contacted police control room of Pune city from his mobile and lodged his complaint with concerned PSI, who was on duty. The Applicant also forwarded the photographs of the incident picturised on his mobile to the control room officer. The Applicant then made a complaint to the control room officer on the landline No.020-26122880 and forwarded the video shooting of the incident to the police control room on the whatsapp number made available to the citizens. The

Applicant then approached the nearest police station i.e. Bibwewadi Police Station. His statement was also recorded on 20/12/2019. All necessary details are referred in the said statement of 20/12/2019. The photocopy of the text messages exchanged between the Applicant and the control room are also placed on record at Exhibit- 'A' at page Nos.10 and 11. It seems that the whatsapp group is created by the police authority themselves and the mobile number was made known to the citizens.

4. Perusal of the whatsapp text shows the name of the whatsapp group. It is 'CRO Pune What's App'. The Applicant has also approached Respondent No.2 by submitting his detailed representation and his grievance of non-action. Then there is a copy of similar representation submitted to the Chairman, Divisional Police Complaint Redressal Forum, Pune, placed on record at Exhibit- 'E' at page 17 dated 05/02/2020. Then there was representation submitted to the Commissioner of Police, Pune, at the instance of office bearers of Residential or Housing Society of the Applicant. It is stated in the representation that the Applicant had informed the police control room about the incidents of bursting of fire crackers and loud noise. It is stated in the representation that it was not a solitary incident but the residents are recently facing with similar incidents and it was requested to the Commissioner of Police to take

appropriate action so as to avoid such incidents in the future.

5. It seems that on receipt of the complaint of the Applicant, certain statements were recorded, copy of the said statements of four persons shows that these four persons have shown their ignorance about the incident. Now relying on these four statements, the Applicant is informed by a communication under caption of '*Samajpatra*' that an enquiry was initiated on the complaint of the Applicant and in the enquiry no useful information was revealed. It is also informed to the Applicant that the owner of the Yash Lawns, one Shri Shripad Osawal was also informed by a communication and he has been asked to take appropriate steps for avoiding the incidents of bursting the fire crackers or loud noise after 10.00 p.m.

6. Mr. Warunjikar, learned counsel for the Applicant submitted that the communication viz. '*Samajpatra*' is nothing but an eye wash and it is the result of one sided enquiry. He further submitted that the Applicant had immediately informed the control room, provided the video shooting of the incident to the control room and stated in his statement the facts in detail. The Applicant had approached the Competent Authorities such as Respondent No.2 and the Chairman of Complaint

Redressal Forum. The Authorities on the backdrop of this fact ought to have collected the material from the Applicant or ought to have verified the material supplied by the Applicant in the form of the photo shoots. But the Authority relying on the statements of the persons showing ignorance, issued a letter to the Applicant. As such the Respondent-State Authorities, who are duty bound to take appropriate steps against the law breakers without doing so, only forwarded the communication to the Applicant under the caption of '*Samajpatra*'.

7. It may not be out of place to state here that the Applicant in his statement dated 20/12/2019 specifically referred to the provisions of the Environment (Protection) Act, 1986, Rules preventing the citizens to burst the fire crackers between 10.00 p.m. to 6.00 a.m. Needless to state that the Act opens up with its object to provide for the protection and improve of environment and for matters connected therewith.

8. Considering all these aspects, we are of the opinion that the application can be disposed of. Learned counsel for the Applicant is justified in making the submission before this Court that Authorities have acted mechanically without considering the object of the Act. Accordingly, we deem it proper to dispose of the application with directions to

Respondent No.2-the Deputy Commissioner of Police, Zone 5, Pune City to personally look into the complaint of the Applicant. Respondent No.2 is certainly entitled to call for all the relevant materials from his subordinate or from his other associate agencies like the concerned officers attached to the control room, incharge officers of the concerned police station i.e. Bibwewadi police station. Respondent No.2 being desirous of granting an opportunity to the Applicant, is at liberty to issue such notice to the Applicant for offering an opportunity of hearing. Respondent No.2 after completing the entire exercises as expected by this Court, may pass appropriate orders and such opinion formed by Respondent No.2 or any order passed by Respondent No.2 be informed to the Applicant. Respondent No.2 to undertake the exercise and pass appropriate orders as expeditiously as possible and not later than 8 weeks from the date of receipt of copy of this order.

9. An authenticated copy of the order be provided to learned counsel for the Applicant as well as the learned APP.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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