

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5361 OF 2017**

Appa Sambhaji Kasbe and others ... Petitioners

Versus

Senior Inspector of Police Station, Pune
and others ... Respondents

.....

Mr. Mahadeo A. Choudhari for the Petitioners.
Mr. K.V. Saste, APP for the State.

.....

**CORAM : NITIN JAMDAR AND
 N.R. BORKAR, JJ.**

DATED : 22 JUNE 2022

P.C. :-

Heard the learned Counsel for the parties.

2. By this Petition, the Petitioners seek to quash FIR No.763 of 2017 dated 13 October 2017. The FIR was initially filed only under Section 48(7) of the Maharashtra Land Revenue Code, 1966. This was noted by this Court when the Petition came up on board where the Division Bench directed the Tahsildar to remain present by order dated 31 January 2018. Thereafter, the Division Bench passed orders on 1 February 2018 and 6 March 2018 as to why the provisions of Indian Penal Code were not invoked.

3. The learned APP states that a report is submitted wherein Sections 379, 188 read with 34 of Indian Penal Code have been added. This is accepted by the learned Counsel for the Petitioners and arguments are advanced on that basis.

4. The learned Counsel for the Petitioners sought to contend that no hearing was given and the ingredients of the offence invoked are not made out. We have considered the Petitioners' contentions as regarding the quashing of this FIR. An information was received that illegal excavation of minor minerals was being undertaken and the trucks, dumpers and tractors were being used. A panchanama was carried out, the land where illegal excavation was carried belonged to the Petitioners and it was stated that the authorities found that the excavation was illegal and the entire hillside was flattened.

5. A perusal of the FIR would indicate that the ingredients of the sections invoked are present. In view thereof, submissions made by the Petitioners that they are innocent and that the statements made in the FIR are incorrect, would require a trial and would not fall under the scope of proceedings for quashing the FIR. Therefore, no case is made out to exercise the extraordinary jurisdiction of this Court to quash the FIR.

6. The Writ Petition is rejected.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

KANCHAN
PRASHANT
DHURI

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