

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

WRIT PETITION NO.343 OF 2022

Monis Gulrez Ahmed Qureshi	]	
Aged : 34 years, Occ.: Business,	]	
Residing at A-701, Pearl Harmony,	]	
Talav Market, S.V. Road,	]	
Opp. Andheri Subway,	]	
Andheri (West), Mumbai – 400 058.	]	.. Petitioner

Versus

The State of Maharashtra,	]	
Through Kasa Police Station, Dist. Palghar	]	.. Respondent

Mr. Ayush Pasbola for the Petitioner.
Mr. J.P. Yagnik, APP for the Respondent–State.

**CORAM : SUNIL B. SHUKRE & M.M. SATHAYE, JJ
DATE : 27TH MARCH, 2023.**

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. RULE. Rule made returnable forthwith. Heard finally by consent of learned counsel for the petitioner and learned APP for the respondent–State.
2. The petitioner is accused no.4 in Crime No.182 of 2021 registered with Kasa Police Station, District Palghar for the offences punishable under Sections 420, 465, 468, 471, 429, r/w. Section 34 of the Indian Penal Code, 1860 and also offences punishable under Sections 5, 5C, 5B, 9, 9A, 9B and 11 of the Maharashtra Animals Preservation Act, 1976 and Section 11(1)(l) of the Prevention of Cruelty to Animals Act, 1960. The gist of the allegations is that

one container bearing Registration No.TN-93-B-9699, approaching Maharashtra from Gujarat was intercepted by Kasa Police Station, which was found to be transporting cow meat, a banned item, and it was further found that the e-Way Bill prepared for transportation of this meat showed that the meat was that of Buffalo, but the Forensic Report showed that the meat was of Cow.

3. Insofar as the petitioner is concerned, it is alleged that he is a Commission Agent but works for the benefit of such traders as accused no.3- Gulrej Haji Rehmat Ali Qureshi, who is alleged to have ordered cow meat for its transportation to Maharashtra through the petitioner. If there is any such allegation, the Investigating Officer ought to have investigated into the same and substantiated the allegation by collecting some evidence against the petitioner. On going through the charge-sheet, however, we find that there is no such material available on record prima facie indicating that this petitioner had indeed worked as a Commission Agent for such persons as accused no.3- Gulrej Haji Rehmat Ali Qureshi and that he had intentionally booked cow meat for and on behalf of accused no.3. There is also no material available on record which prima facie suggests that e-Way Bill prepared in the present case was so prepared on the basis of the information supplied by the petitioner. If this is so, none of the offences, which have been registered against the petitioner, would be prima facie made out even when all the allegations made in the FIR and also the statements of the witnesses, taken at their face-value, are accepted as they are.

4. At this juncture, learned APP for the respondent-State invites our attention to the notes taken by the Investigating Officer during the course of the investigation. These notes are of the date 5th December 2021 and formed part of the Case Diary of the investigation. These notes are in the nature of a statement recorded under Section 161 of the Code of Criminal Procedure, 1973 of one Rajendra Mahohar Pawar, Police Hawaldar, Bakkal No.1816. On going through this statement, we find that there is nothing which would prima facie incriminate the petitioner in the offences registered against him. It only says that the witness – Rajendra Manohar Pawar has learnt about Gulrez Qureshi and Monis Qureshi being the persons who had ordered the goods in the nature of cow meat. So, this statement does not show that Rajendra Manohar Pawar had any first-hand information about this petitioner having played any active role in commission of the alleged offences and as such, even when it is accepted as it is, it would not prima facie incriminate the petitioner in this crime in any manner. In the result, we are of the view that there is substance in the petition and it deserves to be allowed.

5. Accordingly, we pass the following order :-

- (i) The petition is allowed in terms of prayer clause (b), which reads as under :-

“(b). This Hon’ble Court be pleased to quash and set aside the proceedings arising out of FIR bearing C.R. No.182 of 2021 registered with Kasa Police

Station against the petitioner.”

(ii) It is made clear that the proceedings arising out of Crime No.182 of 2021, registered with Kasa Police Station, Dist. Palghar, have been quashed and set aside only as against the present petitioner.

6. Rule is made absolute in the above terms.

[M.M. SATHAYE, J.]

[SUNIL B. SHUKRE, J.]