

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

CRIMINAL WRIT PETITION NO. 1115 OF 2023

Mr Tirthankar Suvankar Ganguly
Aged about 43 years, Occ: Service,
Office at 101, Kalpatru Synergy,
Opp. Grand Hyatt,
Santacruz (East),
Mumbai 400 055.

2. Mr Pranshu Ravindra Dube
Age 33 years, Occ: Service
Aged about 33 years,
r/at: 1202, Sanaya Xtiro,
Rajendra Prasad Road,
Mulund (West),
Mumbai 400 080.

... Petitioners

Versus

1. The State of Maharashtra
Through Gamdevi Police Station

... Respondent

Mr Girish Kulkarni, Sr Advocate i/b. Kripashankar Pandey a/w.
Ms. Mrunmaiee Kulkarni a/w. Omprakash Yadav for Petitioner.

Mr J P Yagnik, APP for the State.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 11th JULY 2023

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Order (Per R. N. Laddha, J.) :-

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. The Petitioners have filed this Criminal Writ Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, to quash the FIR No.307/2022 dated 15 June 2022 registered at Gamdevi Police Station, Mumbai and the proceedings arising from it.

4. The first petitioner, an employee of Kalpataru Limited, received permission from DCP (Operations) to operate a drone around their construction site, Kalpataru Hills Residency Private Limited, located between Pedder Road and the Russian Cultural Centre. The drone was to be used between June 12th and 13th, 2022, in accordance with the permission granted. However, the prosecution claims that the Hon'ble Prime Minister's visit was scheduled on June 14th, 2022 owing to which VVIP movement was anticipated on Pedder Road and, therefore, restrictions were imposed on

using the drone. On June 13th, 2022, while patrolling within the vicinity of Pedder Road and Russian Cultural Centre the first informant noticed a drone in the air and upon investigation, discovered that it had been flown in violation of the permission granted. The alleged breaches were that the drone was flown over a restricted area despite there being restrictions and the local police station had not been informed in advance.

5. The record shows that the learned Magistrate, owing to the express bar of Section 195 of Cr.P.C. did not take cognizance for the offence punishable under Section 188 of Cr.P.C. and issued process against the petitioner for the offence under Sections 37 punishable under 135 of the Maharashtra Police Act. It reveals from record that on June 3, 2022, DCP (Operations) issued an order u/s 144 of the Code of Criminal Procedure, 1973, restricting drone flying activities from June 11, 2022 to July 10, 2022. However, permission was granted for picturisation of the company's project development work through a drone by a letter dated June 11, 2022, vide No.CP/Desk-11(6)/SPT/3109/2022.

6. Learned Counsel for the petitioners was right in contending that the police authority was aware of the alleged

order issued u/s 144 of Cr.P.C. when granting permission. However, there is no mention of any such order in the permission letter dated June 11, 2022. Furthermore, there is no evidence to show that the alleged prohibitory order was properly promulgated as prescribed by Section 163 of the Maharashtra Police Act.

7. In view of this, the petition is allowed in terms of prayer clause (b) which reads thus:

“(b) that this Hon’ble Court be pleased to quash and set aside the impugned charge-sheet filed and pending before the learned Metropolitan Magistrate’s 40th Court, at Girgaon, Mumbai, vide C.C. No.1572/PS/2022 for offences punishable under section 37 r/w 135 of the Maharashtra Police Act, 1951.”

8. Rule is made absolute in aforesaid terms and Writ Petition stands disposed of accordingly.

R. N. LADDHA, J.

NITIN W. SAMBRE, J.

Lata.S.Panjwani, P.S.