



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2748 OF 2024

Lalit Kevalchand Surana And Another
VERSUS
The State Of Maharashtra And Another

.....
Mr. S.V. Suryawanshi, Advocate for Applicants
Mr. V.M. Jaware, APP for Respondents - State
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[CORAM : Y. G. KHOBRAGADE, J.]

DATE : 14th NOVEMBER, 2024

ORDER :

1. Heard Mr. S.V. Suryawanshi, learned counsel appearing for applicant and Mr. V.M. Jaware, learned APP for respondents – State, at length.

2. By the present application filed under section 482 of the Code of Criminal Procedure, the applicants prayed quashment of Regular Criminal Case No.24 of 2020, pending on the file of learned Judicial Magistrate, First Class, Chalisgaon, District Jalgaon, for offence punishable under section 59 of the Food Safety and Standards Act, 2006.

3. It is not in dispute that, on 30.01.2019, the informant Vivek Pandharinath Patil, Food Safety Officer, Jalgaon lodged FIR with Mehunbare Police Station alleging that, on 30.01.2019 at about 17.00 Hours, the vehicle bearing

No. MH-41/V-1695 was intercepted and on searching, it was found that banned substance like *Pan Masala and Ghutka* was being transported in the said vehicle. On the basis of the said complaint, a crime No.0025 of 2019 came to be registered against the accused/applicants for offences punishable under sections 188, 272, 273 and 328 of the Indian Penal Code.

4. After due investigation, the investigating officer filed a charge-sheet. Since offence are triable by the Court of Sessions, learned Magistrate passed an order under section 209 of the Code of Criminal Procedure on 28.04.2022. The said trial is registered as Sessions Case No.120 of 2022, and which is pending on the file of learned Sessions Judge, Jalgaon.

5. Subsequently, on 22.01.2020, the informant also lodged a private complaint before the Judicial Magistrate, First Class, Chalisgaon for the incident occurred on 30.01.2019 for the offence punishable under section 59 of the Food Safety and Standards Act, 2006.

6. Sub section 2 of Section 210 of the Code of Criminal Procedure provides that, if a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate

against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case and the case arising out of the police report as if both the cases were instituted on a police report.

7. In the case in hand, crime No.0025 of 2019 registered on the basis of the report lodged by the informant/Food Safety Officer Shir Vivek Pandharinath Patil for the offences punishable under sections 188, 272, 273 and 328 of the Indian Penal Code and the said trial is pending before the Sessions Court. However, subsequently, the informant who is a complainant also filed a private complaint for the offence punishable under section 59 of the Food Safety and Standards Act, 2006 for the incident occurred on 30.01.2019. Therefore, trial of both the matters has to be conducted by the one and the same Court i.e. Sessions Court, where Sessions Case No.120 of 2022 is pending.

8. In view of the above, the trial of the private complaint bearing Regular Criminal Case No.24 of 2020 is hereby withdrawn from the file of learned Judicial Magistrate, First Class, Chalisgaon and transfer to the file of learned Sessions Judge, Jalgaon to tried and decide the same with Sessions Case No.120 of 2022.

9. It is further made clear that the Sessions Court can frame the charge in Sessions Case No.120 of 2022 for offence punishable under section 59 of the Food Safety and Standards Act, 2006 on the basis of private complaint.

10. Accordingly, the application is disposed.

[Y. G. KHOBRADE,]
JUDGE

S.P. Rane