

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

CRIMINAL WRIT PETITION NO. 385 OF 2024

Kashinath Vithhal Shelar And Ors. ...Petitioners
Versus
State Of Maharashtra And Anr. ...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 390 OF 2024**

Tanaji Vilas Mandhare And Anr. ...Petitioners
Versus
State Of Maharashtra And Anr. ...Respondents

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Ms. Tanvi Tapkire, Advocate for the Petitioner in W.P. NO.385/2024.
Mr. Hrishi Ghorpade, Advocate for the Petitioner in W.P. NO.390/2024.
Mr. Anand Salgaonkar, APP for the Respondent – State in W.P. NO.385/2024.
Mrs. M.M. Deshmukh, APP for the Respondent – State in W.P. NO.390/2024.

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**CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.**

DATE : 14th FEBRUARY, 2024.

P.C.:

1. The Petitioners in both the Petitions are challenging the First Information Report (for short 'FIR') dated 25th December, 2023 registered with Wai Police Station vide C.R. No.817 of 2023 for the offence under Section 135 of Maharashtra Police Act.

2. Learned Advocate for the Petitioners submitted that Section 135 relates to penalty for contravention of rules or

directions under Sections 37, 39 and 40 of the Act. The said provision provides that if the Order disobeyed of which the disobedience or abated was made under Sub-section 1 of Section 37 or under Sections 39 or 40 the punishment could be imprisonment for a term which may extend to one year. But shall not except for reasons to be recorded to writing the less than four months and shall also be liable for fine. If the Order is made under Sub-section 2 of Section 37 the punishment is imprisonment for a term which may extend to one month and fine which may extend to Rs.2,500/- and if the said order was made under Sub-section 3 of Section 37, the punishment is fine which may extend to Rs.2,500/-. It is submitted that the breach alleged against the Petitioners could at the most be under Section 37(3) which is punishable with fine. The offence is non-cognizable in nature. The Police were not empowered to registered the FIR for the aforesaid offence.

3. Learned APP seeks time to take instructions.
4. Stand over to 19th March, 2024.
5. There shall be ad-interim relief in terms of prayer clause-d till the next date of hearing.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)