



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 925 OF 2024

Sudhir S/o. Purushottam Mudewar .vs. The State of Maharashtra, through PSO,
PS Bhadrawati, Distt. Chandrapur & anr

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mrs R. V. Sirpurkar, Advocate for the applicant
Mr Piyush Pendke, APP for the respondent No.1 /State

CORAM : G.A. SANAP J.
DATE : DECEMBER 17, 2024

Heard learned Advocate for the applicant and
learned APP for the State.

2. In this application, the applicant is aggrieved by the order dated 27.03.2024 passed by the learned Judicial Magistrate First Class, Bhadrawati, Distt. Chandrapur and more particularly the condition with regard to the deposit of Rs.2,93,600/- (Rupees Two Lacs Ninety Three Thousand Six Hundred only) as a penalty. It is submitted that the proceeding was conducted by the Tahsildar as well as by the Sub Divisional Officer, Warora (for short 'the SDO'). In the final proceeding, conducted by the SDO, as per Section 48 (8) of the Maharashtra Land Revenue Code, 1966 the final penalty/fine has been imposed. The SDO has imposed penalty/fine of Rs.2,00,000/- and added the fine amount of Rs.93,600/- imposed by the Tahsildar. So

the total fine is Rs.2,93,600/-. Learned Advocate for the applicant submits that this condition is onerous. This part of the order directing the applicant to deposit Rs.2,93,600/- for release of the vehicle may be modified.

3. I have gone through the record. It is pointed out that the order of the SDO has been challenged by the applicant before the Collector, Chandrapur by filing an appeal. It is submitted that the petitioner has a good case on merit. It is therefore submitted that in the interest of justice this condition be modified.

4. Learned APP submitted that unless and until the order passed by the SDO is set aside in the appeal, this order will hold the field. In short, the learned APP supported the order passed by the learned Magistrate imposing this condition. I have given thoughtful consideration to the submissions. Initially the Tahsildar Bhadrawati has ordered the applicant to pay the penalty of Rs.93,600/-.

5. The SDO, Warora directed the applicant to pay a penalty of Rs.2,00,000/-. As on date the total penalty directed to be paid is Rs.2,93,600/-. As far as the recovery of the said penalty is concerned, this Court is not required to go into that issue. The Tahsildar would be the

competent authority to take appropriate action for recovery of that amount for implementation of that order. In my view, considering the facts of this case and the two orders, one passed by the Tahsildar and another by the SDO, it would be just and proper to modify this condition. The application is therefore partly allowed.

6. In view of this, the order dated 27.03.2024 passed by the learned Judicial Magistrate First Class, Bhadrawati, Distt. Chandrapur is modified. Instead of Rs.2,93,600/-, the applicant shall deposit Rs.1,00,000/- (Rupees One lac only), a part of a penalty, in terms of the condition imposed by the learned Magistrate.

7. The order be complied within two weeks.

8. It is made clear that the amount directed to be deposited pursuant to this order shall be adjusted in the amount finally decided in the appeal by the Collector.

9. In view of the above, subject to other conditions imposed by Judicial Magistrate First Class, Bhadrawati, the vehicle be handed over to the applicant.

10. The criminal application stands disposed of, accordingly.

(G. A. SANAP, J)