



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1083 OF 2023

Yogesh S/o Shenpadu Mahale,
Age-52 years, Occu:Agri.,
R/o-Kunzar, Taluka-Chalisgaon,
District-Jalgaon.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Secretary,
Home Minister, Mantralaya,
Mumbai (M.S.),
- 2) The Director of Police, Mumbai,
- 3) Deputy Inspector General of Police,
Nashik, Taluka and District-Nashik,
- 4) The Superintendent of Police,
Ahmednagar, Taluka and District-
Ahmednagar,
- 5) The Deputy Superintendent of Police,
Shirdi, Taluka-Rahata, District-Ahmednagar,
- 6) The Inspector of Police,
Kopargaon Gramin Police Station,
Kopargaon, Taluka-Kopargaon,
District-Ahmednagar,
- 7) Yogesh S/o Shivaji Dhanavate,
Age-41 years, Occu:Agri.,
R/o-Puntamba, Taluka-Rahata,
District-Ahmednagar.

...RESPONDENTS

...
Mr. Ujwal S. Patil Advocate for Petitioner.
Mr. A.D. Wange, A.P.P. for Respondent Nos. 1 to 6.
Mr. R.R. Karpe Advocate for Respondent No.7.
...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 24th APRIL 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed for quashing the proceedings in S.C.C. No. 541 of 2022 pending before the learned Judicial Magistrate First Class, Kopargaon, Taluka-Kopargaon, District-Ahmednagar, for the offence punishable under Sections 304-A, 279, 283, 337, 338, 427 of the Indian Penal Code and Section 184 of the Motor Vehicles Act.

2. Heard learned Advocate Mr. Patil for petitioner, learned APP Mr. Wange for respondent Nos. 1 to 6 and learned Advocate Mr. Karpe for respondent No.7.

3. Learned Advocate appearing for the petitioner submits that the petitioner is an agriculturist and contractor of labour. Petitioner is the owner of tractor bearing registration No. MH-19-BG-1618. The petitioner had taken labour contract with

Sanjivani Sugar Co-operative Factory in which the said tractor was involved. The investigating officer has seized the said tractor wrongly. In the contract there was no mention of tractor bearing registration No.MH-19-DV-0741. If we peruse the First Information Report (for short "the FIR"), which is lodged by the brother of the deceased, it can be seen that the deceased who was on his motorcycle had dashed to a stationary trolley. The said trolley was filled with sugarcane and it is stated that the said trolley was dangerously parked. In the FIR it is then stated that when the informant made inquiry, he came to know that the said trolley was attached to tractor bearing registration No. MH-19-DV-0741. But when it was noticed that said tractor was not having contract with the sugar factory, then later on supplementary statement of the informant and the other witnesses have been recorded wherein the number of the tractor has been corrected. That means the investigating officer has changed the number intentionally. The petitioner has been shown as driver of the vehicle and made as an accused, however there is nothing on record to show that the petitioner had parked the said vehicle in the dangerous way. It would be unjust to ask the petitioner to face the trial with this material.

4. Per contra, the learned APP appearing for respondent Nos. 1 to 6 and learned Advocate appearing for respondent No.7 – the informant, strongly opposed the Petition and submitted that perusal of the panchnama would certainly show that the trolley was parked in a dangerous position. The safety measures while parking the trolley were not adhered to. The accident had taken place around 10.30 p.m. to 10.45 p.m. The trolley had no reflectors, it had no number at all. In fact the statement of witness Avinash Shinde would show that after the accident had taken place, when the petitioner had gone to fetch the trolley, at that time the witness had made inquiry about the name of the petitioner. Similar is the statement of Amol Bairagi, Sunil Gaikwad, Navnath Roham. Therefore, certainly the petitioner is involved in the accident. It would be the matter of evidence as to by which tractor he had taken the trolley to the place of accident and had parked it. This is not a fit case where the powers under Section 482 of the Code of Criminal Procedure should be exercised.

5. At the outset, from the entire charge-sheet it can be seen that nobody has seen the tractor with trolley coming to the place of accident and tractor after being detaching from the trolley had

kept the trolley there. The trolley cannot go on its own at the place of accident and therefore, there should have been some vehicle with the help of which the said trolley would have been taken to the said place. There are eye witnesses to the incident that the deceased coming from the back side of the trolley and giving dash to the same. Those witnesses have made arrangements to send the deceased to the hospital and contacted his relatives. The trolley was parked there as its tyre from the back to the driver's seat was got punctured. The statements of the witnesses would show that the trolley was filled with sugarcane. It had no reflectors nor there was any mark to identify that a trolley has been parked at that place. Even the trolley had no number. Those witnesses have then stated that when the tractor bearing registration No.MH-19-BG-1618 came there on the next day to take the trolley, at that time those witnesses had asked the name of the driver. It was the petitioner and after giving his name, he also told that the said trolley belongs to him. There are also other witnesses who would state that the said tractor i.e. bearing registration No.MH-19-BG-1618 was mentioned in the labour contract which the petitioner had entered into with the sugar factory. Now it would be a disputed question of fact, as to by which tractor the said

trolley was parked at the said place and therefore, this is not a fit case where we should exercise our powers under Section 482 of the Code of Criminal Procedure.

6. The Writ Petition stands rejected.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/APR25