



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

CRIMINAL APPLICATION [APL] NO.678 OF 2024

[Jayeshkumar Surendra Pokharna and others .vs. State of Maharashtra and one]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.A. Mohta, Advocate for Applicants.
Shri A.R. Chutke, APP for Non-Applicants.
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**CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.**

DATE : APRIL 24, 2025.

P.C.

1. At the outset, learned counsel for the applicants, on instructions, makes a statement that he does not want to press the application qua applicant no.2, accordingly, it is disposed of qua applicant no.2, as not pressed.

2. As regards the applicant nos.1 and 3, a prayer is made to quash and set aside the Chargesheet No.47/2023 filed before the learned Judicial Magistrate, First Class, Wani, District-Yavatmal and Regular Criminal Case No.203/2023, arising out of the First Information Report vide Crime No.201/2023, dated 30.05.2023 for the offences under Sections 188, 272, 273, 328 r/w 34 of the Indian Penal Code read with Section 26 (2)(i), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standard Act, 2006 against the applicant nos.1 and 3 registered with Police Station, Shirpur, District-Yavatmal.

3. It is argued that except the statement of co-accused, there is no material against the applicant nos.1 and 3 to show that they are involved in the alleged offence.

4. It is submitted that earlier the offence was registered only against applicant no.2. However, during his PCR, he disclosed the names of the applicant nos.1 and 3 and thereupon they have been implicated in the alleged offence.

5. Learned Additional Public Prosecutor appearing for the Non-Applicants/State is not disputing the fact that except the statement of co-accused, there is no material against the applicant nos.1 and 3.

6. Since the chargesheet is filed and during investigation nothing has been found against the applicants to show their complicity in the alleged offence, we cannot allow the prosecution to proceed against applicant nos.1 and 3 only on the basis of such statement of co-accused, otherwise it will amount to abuse of process of law.

7. In the circumstances, we find that this application needs to be allowed by quashing and setting aside the chargesheet against applicant nos.1 and 3 and, therefore, we proceed to pass the following order :

ORDER

- (i) Criminal Application is allowed.
- (ii) The Chargesheet No.47/2023 filed before the learned Judicial Magistrate, First Class, Wani, District-Yavatmal and

Regular Criminal Case No.203/2023 pending before the same court, arising out of the First Information Report vide Crime No.201/2023, dated 30.05.2023 for the offences under Sections 188, 272, 273, 328 r/w 34 of the Indian Penal Code read with Section 26 (2)(i), 27(3)(e), 30(2)(a) and 59 of the Food Safety and Standard Act, 2006 against the applicant nos.1 and 3 registered with Police Station, Shirpur, District-Yavatmal, is hereby quashed and set aside.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)