



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

CRIMINAL APPLICATION (APL) NO.695 OF 2019

Rajpal Singh s/o Laxman Singh Thakur
Vs.

State of Maharashtra, through Police Station Officer, Police Station Telhara
District Akola and others

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

Court's or Judge's orders

Mr. A. B. Mirza, Advocate for applicant.
Mr. N. B. Jawade, APP for non-applicant Nos.1 and 3/State.
Mr. Anilkumar J. Thakkar, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
DATED : 14/11/2025

1. Present application is preferred by the applicant for quashing of the First Information Report in connection with Crime No.283/20218 dated 14.10.2018 registered with Police Station Telhara, District Akola for the offence punishable under Section 3 and 7 of the Essential Commodities Act.

2. The crime is registered on the basis of a report lodged by the informant Sanjay Bhaudeo Bagade on an allegation that he is working as a Sarpanch of Malegaon Bazar from last one year. The present applicant was running the fair price shop in the village, but he was not supplying the food grains which are reserved for the poor strata of the society and selling it in the open market. It is further alleged that on 13.10.2018 he and other villagers were roaming in the village, at the relevant time, he witnessed that some food grains were

shifted from the shop of the present applicant to some other place, therefore, he informed the police. On the basis of his information, police have conducted a raid and the crime is registered against the present applicant. During the investigation, the Investigating Officer has recorded the statements of relevant witnesses.

3. Heard learned counsel for the applicant, who submitted that due to the previous enmity, the present FIR is lodged against the present applicant. He invited our attention towards the communication of the Tahsildar and submitted that no such misappropriation was found during the inspection by the Tahsildar. Thus, due to the previous enmity between the Sarpanch and the present applicant, this false FIR is lodged against him. As far as the *prima facie* case is concerned, which is not appearing against the present applicant, in view of the decision of the Hon'ble Apex Court in the case of **State of Haryana and others Vs Bhajan Lal and others** reported in **1992 Supp. (1) SCC 335**. The contention of the applicant is covered and therefore, the FIR against the present applicant deserves to be quashed along with the consequent proceedings.

4. Learned APP strongly opposed for the same and submitted that during the investigation, the Investigating Officer has recorded the various statements of the witnesses especially the villagers which shows that the applicant was seen shifting the food grains which are reserved for the poor strata of the society, as well as the statements of the villagers further shows that though they are entitled for receiving the

reserved quota of the food grains, they have not received and the applicant is distributing it for selling in the open market. He further invited our attention towards the decision of the full Bench in the case of **Digambar s/o Rodji Wankhede Vs. State of Maharashtra** reported in **2019 (5) Mh.L.J. 119** wherein Full Bench of this Court has considered that it would be inappropriate to expect that an FIR would not be registered unless each and every detail of the Order issued under section 3 of the Act of 1955, was stated in FIR. If such an interpretation is placed, it would militate against very objects and reasons for the enactment of legislation, which provides for control of production, supply and distribution as also trade and commerce in certain commodities in the interest of the general public. Whenever a complaint regarding offence under the Act of 1955 is lodged, it necessarily entails swift action on the part of the Police machinery so as to protect the interest of general public. To accept the contentions raised on behalf of the applicant would amount not only to slowing down the entire process of investigation, but hampering the same, which cannot be permitted. If the FIR is quashed for same reason only, it would lead to the investigation itself being nipped in bud, thereby allowing the accused to go scotfree, despite contravention of an order issued under section 3 of the Act. Mere non-mention of particular provision of an "Order" or "Order" issued under section 3 of the Act of 1955, by itself is not sufficient to quash and set aside an FIR. The State would be entitled to demonstrate before a Court that an order issued under section 3 of the Act of 1955, indeed exists and there is contravention of clauses thereof, leading to offence under section 7 of the Act of 1955.

5. In view of the observation of the Full Bench and considering the facts of the present case, wherein the allegation levelled against the present applicant is that he has not distributed the food grains which are reserved for the poor strata of the society, but was found storing it for selling in the open market. At this stage, the statements of the witnesses are relevant which shows the substance in the allegation made by the informant in the FIR. During the investigation, the Investigating Officer has recorded various statements and it is specifically alleged against the present applicant that though he is running the fair price shop, he is not distributing the food grains which are reserved for the poor strata of the society and thereby committing a misappropriation of the said stock. Thus, considering the various statements, at this stage, it would not be relevant to consider the defence of the present applicant that he is implicated falsely due to the previous enmity between him and the informant. At this stage, nothing is on record to show that there is a previous enmity to the extent that the informant is having ill-intention to implicate him in the alleged offence. Moreover, the learned APP also pointed out that since the registration of the offence, the applicant has not appeared before the trial Court and due to his absence, the charge could not be framed. He also placed on record the status of the case which is pending before the trial Court which shows that NBW is already issued against the present applicant and he has not attended the Court. Thus, considering all these aspects, at this stage, considering the *prima facie* case and the guiding factors issued by the Hon'ble Apex Court in the case of **State of Haryana and others Vs**

Bhajan Lal and others referred supra, which is reproduced for the reference.

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. The application of the present applicant deserves to be rejected having a *prima facie* case against him. In view of that, the application is hereby **rejected**.

(NANDESH S. DESHPANDE, J) (URMILA JOSHI-PHALKE, J)