



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

CRIMINAL APPLICATION (APL) NO. 1282 OF 2024

**(Mohammad Sohel Mohd. Faruk Sheikh and another Vs. State, thr PSO, PS, Pandharkawada,
Dist. Yavatmal and another)**

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

Court's or Judge's Order

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Mr. L. Hussain, Advocate for applicants.
Mr. S.S. Doifode, APP for non-applicant No.1/State.

**CORAM : NITIN B. SURYAWANSHI, AND
ABHAY J. MANTRI, JJ.**

DATE : 08/01/2025

This is an application under Section 528 of the Bhartiya Nyay Suraksha Sanhita, 2023 for quashing of the First Information Report ("FIR", for short) and further proceedings of Crime No. 655/2024, registered with Pandharkawada Police Station, for offence punishable under Section 11(1) of the Prevention of Cruelty to Animals Act, 1960 ("Act of 1960", for short).

2. Heard Mr. Hussan, learned Counsel for the applicants and Mr. S.S. Doifode, learned Assistant Public Prosecutor for non-applicant No. 1, perused the documents placed on record.

3. Learned Counsel for applicants submit that applicants are only driver and cleaner of the transport vehicle and the calves/transport vehicle owner is not made accused. Certificate under

Rule 125E of the Central Motor Vehicle Rules, 1989 (“the said Rules”, for short) was issued, so also, certificate of fitness of cattle under Rule 47 of the said Rules was issued thereby permitting to transport 16 cattle. The applicants were merely carrying out the directions issued by the owner of the transport vehicle. Purchase-sale receipt of purchasing 16 calves is also relied upon by the applicants in support of their contention that after obtaining necessary permission and certificates, they were transporting the calves as per the direction of the transporter and therefore, they have not committed any offence under Section 11(1) of the Act of 1960.

4. Learned Assistant Public Prosecutor on the other hand submits that there is clear violation of the mandatory conditions provided under Rule 125E of the Rules. By relying on definition of owner given under Section 2(8) of the Act of 1960 he submits that even the driver is liable along with the owner for prosecution under Section 11 of the 2013 Act.. As the applicants being driver and cleaner of the vehicle, are found in possession of the cattle being transported in contravention of the Rules, they are rightly made accused. He submits that there is sufficient material on record to prosecute the applicants.

5. The documents placed on record and the investigation papers reveal that the cattle were being transported in violation of the

conditions laid down in the Rules and therefore, there appears prima facie material on record to prosecute the applicants under Section 11 of the Act of 1960. Though, a certificate under 125E Rules is issued permitting transport of 16 calves/cattle, the note under the said certificate specifically mentions that while transporting the cattle, the conditions as per Rule 125E of the Rules will have to be followed. The material on record prima facie indicate breach of such conditions. Considering the material collected during the investigation, there is prima facie material to prosecute the applicants, hence, in our view, this is not a fit case for quashing of the FIR. The application being devoid of merit, is dismissed.

(ABHAY J. MANTRI, J.)

(NITIN B. SURYAWANSHI, J.)

Belkhede