



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

CRIMINAL APPLICATION (APL) NO. 1517 OF 2023

SHRIKRUSHNA RAMBHAU ORIVKAR

...Vs...

STATE OF MAH. THR. DIST. PUBLIC PROSECUTOR AKOT, DIST. AKOLA AND OTHERS

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Shri N.R.Tekade, Advocate for applicant.

Shri H.D.Marathe, APP for respondent no. 1/State.

Shri V.B.Bhise, Advocate for respondent nos. 2 to 7.

CORAM: RAJNISH R. VYAS, J.

DATED : 22nd SEPTEMBER, 2025.

This is an application preferred by the original accused challenging the order passed by the Revisional Court, by which, the revision preferred by the Forest Officers was allowed and consequently, the order issuing process against the Forest Officers was set aside.

2. I have gone through the entire record. Learned Revisional Court in order impugned has observed as under:-

“20. If according to Shrikrishna as per his pursis, that he was brutally beaten up making naked by 30 to 40 forest officers and hence, he preferred complaint of ill-treatment and hence, he then filed private complaint before the learned JMFC, before taking cognizance and issuing process against the forest officers, the learned JMFC ought to have seen at least the medical examination report of Primary Health Center, Hiwarkhed, as the learned JMFC himself had referred the accused for medical examination.

21 That report vide MLC No. 6735 is dated 07.04.2018 itself. It is certainly much prior to the impugned

process issue order dated 29.09.2018 and though Shrikrishna may not have placed that medical report before the learned JMFC in his RCC No. 80/2018, the learned JMFC was certainly well aware of the fact that, Shrikishna was referred to medical officer soon after his complaint of ill treatment at the hands of the forest officers. Hence, in my opinion, before taking cognizance and passing any order of issuing process, it was incumbent upon the learned JMFC to ask Shrikrishna to produce that medical report/MLC of Primary Health Center, Hiwarkhed. Because, that MLC was the most valuable piece of independent evidence available to decide whether prima facie case exists or not against the forest officers.”

3. The observation of Revisional Court that, before taking cognizance and passing order of issuing process, it was incumbent upon the Magistrate to ask the applicant to produce the medical report/MLC of Primary Health Center, Hiwarkhed, was necessary. The said observation are tested in the background of order issuing process dated 29/09/2018. The said order is reproduced below:-

“ORDER BELOW EXH. 01
(dtd. 29/09/2018)

Perused the complaint, heard the learned counsel for the complainant. Gone through the entire documents filed on record also perused the inquiry report of J.M.F.C. Akot dtd. 04/05/2018. It appears to me that prima facie under Section 330 and 324 of Indian Penal Code is made out against accused No. 1 to 6. Hence, issue process under Section 330 and 324 of Indian Penal Code r/o next date.”

4. If the said order is perused, it would reveal that, the Magistrate has stated that, he has gone through the

entire documents filed on record and also perused the inquiry report of the Judicial Magistrate First Class, Akot dated 04/05/2018. A report dated 04/05/2018 is at page 40 and relevant portion is at page 43 which reads as under:-

“For the purpose of investigation, record was called from Telhara Rural Hospital wherein the concerned Medical Officer has also mentioned that during observation, he found contusion and abrasion. –In order to ascertain whether Shrikrushna Orivkar was produced at Hiwarkhed P.H.C. on 07-04-2018, M.L.C. was called. The Medical Officer of P.H.C. Hiwarkhed has submitted his report.”

5. In the aforesaid background, it can be said that, the Magistrate before issuing the process has taken into consideration the report dated 04/05/2018. Therefore, the observation of the learned Revisional Court is incorrect. It is further necessary to mention here that the Revisional Court has also dealt with the question of sanction to prosecute the Forest Officers.

6. Be that as it may, since the learned Revisional Court has not considered that, the Magistrate while issuing the process has considered the MLC issued by Primary Health Center, Hiwarkhed and has given perverse finding, the order passed by the learned Revisional Court i.e. Additional Sessions Judge, Akot, District Akola dated 18/08/2023 in Cri. Revisional Application No. 31/2019 is liable to be quashed and set aside. Accordingly, I direct Additional Sessions Judge, Akot to decide the Revision afresh not only on the point of sanction but also on the points which will be taken by both the parties.

7. The the learned Additional Sessions Judge, Akot is further directed to decide the Revision within three months from the date of receipt of order.
8. Accordingly, the application stands **disposed of**.

(RAJNISH R. VYAS, J.)

B.T.K.