



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

CRIMINAL APPLICATION (APL) No.1689 OF 2024

1. Rahul S/o. Rajendra Deshmukh,
Aged About 30 years,
Occupation : Business,
R/o. Plot No.115, Priti Apartment,
Near Water Tank, Laxmi Nagar,
District: Nagpur.

2. Azar Akram Qurashi,
Aged About 30 years,
Occupation : Private,
R/o. Behind Ali Qureshi Mosque, Sadar,
Nagpur District : Nagpur. : APPLICANTS

...VERSUS...

1. State Of Maharashtra
Police Station Officer,
Police Station Sitabuldi, Nagpur,
District : Nagpur.

2. Sanghdeep S/o. Gautam Fulekar,
Aged About 26 Years,
Occupation : Service,
R/o. Plot no. 29,
Behind Gajanan Maharaj Mandir,
Sudarshan Nagar, Hudkeshwar,
Nagpur, District: Nagpur. : NON-APPLICANTS

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Mr. S.R. Kadam, Advocate for Applicants.
Mrs. Sneha Dhote, Additional Public Prosecutor for Non-applicant No.1.
Mr. N.S. Jadhao, Advocate for Non-applicant No.2.

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CORAM : **URMILA JOSHI-PHALKE AND**
NANDESH S. DESHPANDE, JJ.
DATE : **15th DECEMBER, 2025.**

JUDGMENT : (Per : Urmila Joshi-Phalke, J.)

1. Heard. Admit. Heard finally by consent of learned counsel appearing for the parties.
2. By this application the applicant is seeking quashing of the First Information Report in connection with Crime No.1043/2024, registered under Section 21(1) of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 (hereinafter referred to as, "the Act 1975")
3. The crime is registered on the basis of a report lodged by the informant on an allegations that the present applicant has cut 3 palm trees, 2 wild sweetsop (Ramphal) trees and 1 mango tree and various other trees without obtaining permission from the appropriate authority and thereby violated the provisions under Section 21(1) of the Act 1975 and thereby committed an offence.
4. Learned counsel for the applicants submitted that considering the punishment provided under Section 21 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 the offence is in the category of non-cognizable offence for which the investigation after obtaining permission in terms of

Section 155(2) of the Criminal Procedure Code is required. In view of that, the application deserves to be allowed.

5. In support of his contention he placed reliance on the decision of this Court in Writ Petition No.1189/2017, dated 19th December, 2018.

6. Learned A.P.P. for the non-applicant No.1 and learned counsel for the non-applicant No.2 strongly opposed for the same and submitted that there is a clear violation of the provisions and therefore, the offence is registered. No prima facie case is made out, hence, the application deserves to be rejected.

7. Learned A.P.P. has not disputed the fact as far as the provision is concerned. Section 21 of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 makes the offence of tree felling punishable with fine not less than Rs.1,000/- which may extend upto Rs.1,00,000/-. In view of amendment and also the imprisonment for a term not less than one week which may extend upto one year. There is no other Section in the Act 1975 dealing with offences or its cognizance or procedure. Section 2(x) explains that words and expression used in the Act 1975, but not defined therein, are to be given meaning assigned to them in a relevant fact. It, therefore, follows the prosecution for offences under Section 21 has to be in consonance with Criminal Procedure

Code, 1973.

8. The Division Bench of this Court has dealt with this aspect and observed that the controversy because impact of such cognizance and investigation without necessary permission in terms of Section 155(2) of the Criminal Procedure Code is looked into by this Court in the case of **Mukesh Laxman Das Talreja Vs. Inspector of Police, 2006(2) Bom.C.R. (Cri.) 76**, wherein learned Single Judge of this Court in paragraph 6 observed as under :

“A perusal of the said section makes it clear that the aforesaid provision of obtaining the permission is a mandatory provision and if there is non-compliance of the said provision, the investigation which is carried out by the Police Officer would be rendered illegal and void. In my view, since the said provision has not been followed, the entire investigation which is carried out by the Police Officer will have to be set aside on this ground alone.”

9. In view of this observation the Division Bench in Writ Petition 1189/2017 already held that the provision under Section 155(2) of the Criminal Procedure Code is required to be followed.

10. In view of this ruling and also the clear provision of law it is apparent that the cognizance and investigation is unsuspendable and *non-est*. In view of that, the application deserves to be allowed. Consequently the F.I.R. in connection with Crime No.1043/2024 and consequent proceeding arising out of the

same bearing Summary Criminal Case No.10813/2025 is hereby quashed and set aside to the extent of the present applicants, namely, (1) Rahul S/o. Rajendra Deshmukh, (2) Azar Akram Qurashi.

11. The application is disposed of.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)

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