IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4979 OF 2024

Balkrishna Shahaji Pansare & Anr. … Petitioners

V/s.

Mahesh Mukund Choudhari & Anr. …. Respondents

PRACHI PRANESH NANDIWADEKAR
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Date: 2026.10.15 11:10:44 +0530

Mr. Deepak Thakare a/w Mr. Nilesh Navale, for the Petitioners.
Mr. Vedant Babar a/w Mr. Rahul Kadam, for Respondent No.1.
Ms. M. R. Tidke, APP for the Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 13 OCTOBER 2026

P. C. :-

1. Heard Mr. Thakare, learned counsel appearing for the Petitiners and Mr. Babar, learned counsel appearing for the Respondent No.1.

2. By this petition, the challenge is to the legality and validity of the order dated 26th October 2021 passed by the learned 5th Judicial Magistrate, First Class (JMFC) Court, Kalyan below Exhibit No.1 in O.M.A. No. 460 of 2018 and the order dated 20th June, 2024 passed by the learned Additional Sessions Judge, Kalyan, District Thane in Criminal Revision Application No. 38 of 2022.

3. It is the submission of the learned counsel appearing for the Petitioners that process issued by the learned JMFC could not have been issued as Section 19 of the Environment Protection Act, 1986 provides that no Court shall take cognizance of any offence except on a complaint made by the Central Government or any authority or officer authorised in this behalf by that Government or adjudicating officer or any officer authorised by him in this behalf. He submits that the impunged orders be quashed and set aside.

4. On the other hand, learned APP appearing for the Respondent-State supports the impugned orders.

5. It is required to be noted that the learned JMFC issued process by order dated 26th October 2021 against present Petitioners i.e. Accused nos.1 and 2 under Sections 269, 270, 278, 420, 467, 468, 471 read with Section 34 of Indian Penal Code (IPC).

6. The learned JMFC has given detailed reasons for issuance of process. The relevant paragraphs are paragraph nos. 2, 3, 4 and 5 which reads as under :-

"2. It is the case of complainant that accused no.1 as an owner and accused no.2 as manager of Skylab Analytical runs this lab. The accused told the complainant that their lab has received project of online continuous monitoring system from Central Pollution Control Board. Thereby, they have received franchisee of W.T.W. German company to supply machines in State of Goa, Maharashtra and Gujrat. They offered share in the profit to the complainant. Hence, he left his job in Indonesia and came to India on 14/02/2015. It was informed that time limit for the project is 31/03/2015 and therefore, asked the complainant to start the work immediately. Accused made visiting cards for the complainant as CEO of the lab.

3. Accordingly, complainant received orders of Rs.120 lakhs. He found that Skylab has no nexus with German Company W.T.W. but they are purchasing machines from Delhi based Nevako Engineering Company. Complaint was made against the Skylab by Lab System, Mumbai which is real franchisee of W.T.W. German company. Accused did not paid payment of Rs.12 lakhs of the complainant. Complainant found that Skylab is illegal. They have obtained sanction of Central Board by providing forged documents. It has no sanction from Maharashtra Pollution Control Board and KDMC. Skylab is violating many rules and regulations such as disposing chemical waste in the municipal gutter, using water supply for commercial purpose. Thus, complainant left Skylab in November 2015.

4. After that he filed complaint at Bazarpeth police station. But no action has been taken. He further stated that accused no.1 and 2 are only holding batchlor degree and not masters degree as required to become Government Analyst. They have also forged the documents to comply all the necessary legal requirements to set up chemical laboratory. Accused have provided false details to obtain sanction from government authorities. Thereby, they have conducted the lab illegaly without any saction and permission. Persons who are in government service have been shown as working at Skylab. On 31/03/2016 Maharashtra Pollution Control Board ordered to shut down this lab but again in April 2018 the Skylab commenced its work.

> 5. After perusal of the documents filed on record the allegations made in the complaint are supported. It is found that there is difference in qualification of the accused and the required qualification to obtain any sanction to set up Skylab. As alleged the Skylab does not satisfied all the requirements set up in the rules and regulations promolgated by the government authorities especially by Central Pollution Control Board. Therefore, prima facie after perusal of complaint and documents produced on the record show that there is sufficient material on the record to proceed against the accused and issue process against them."

7. It is the submission of the learned counsel appearing for the Petitioners that cognizance cannot be taken under Section 19 of the Environment Protection Act, 1986. The said Section 19 reads as under :-

"19. Cognizance of offences.

No court shall take cognizance of any offence under this Act except on a complaint made by

(a) the Central Government or any authority or officer authorised in this behalf by that Government; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid."

(Emphasis added)

8. Thus, what is contemplated by Section 19 of the Environment Protection Act, 1986 is that no court shall take

cognizance of any offence under the said Act i.e. Environment Protection Act, 1986, except on a complaint made by the Central Government or any authority or officer authorised in that behalf by that Government or adjudicating officer or any officer authorised by him in this behalf. Thus, what is important is that no court shall take cognizance of any offence under the Environment Protection Act, 1986 except on a complaint made by authorities which are specified in Section 19.

9. In this particular case, process has been issued under Sections 269, 270, 278, 420, 467, 468, 471 read with Section 34 of IPC. Thus, this is not a complaint under the provisions of the Environment Protection Act, 1986. Therefore, there is no substance in the contention raised by the learned counsel appearing for the Petitioners.

10. Thus, no case is made out for interference in the impugned order.

11. Accordingly, the Writ Petition is dismissed.

[MADHAV J. JAMDAR, J.]