



[2023:RJ-JD:38449]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Criminal Misc(Pet.) No. 3960/2019

Ketan Soni S/o Shri Mukanchand Soni, Aged About 42 Years, Bayad, District Sabar Kanta (Gujarat) Presently Working As D.g.m. Suzlon Gujarat Windpark Ltdl, C/o Suresh Proprietor Of V. Gurumallappa And Co. 2Nd Floor, Venkatadri Badavane, Bank Colony, Next Reddy Convention Hall, Chitradurga - 577501, State Of Karnataka.

----Petitioner

Versus

1. State Of Rajasthan, Through P.p.
2. Labhu Ram S/o Shri Prabhu Ram, Village Mokla, Tehsil And District Jaisalmer.
3. Indra Singh S/o Shri Khangar Singh, Village Mokla, Tehsil And District Jaisalmer.
4. Poonam Singh S/o Shri Bhanwar Singh, Village Mokla, Tehsil And District Jaisalmer.
5. Bharat Singh S/o Shri Lilu Singh, Village Mokla, Tehsil And District Jaisalmer.
6. Purkha Ram S/o Shri Deraj Ram, Village Mokla, Tehsil And District Jaisalmer.

----Respondents

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For Petitioner(s)	:	Mr. Akhilesh Rajpurohit Mr. Ravi Maloo
For Respondent(s)	:	Mr. Mukhtiyar Khan, Dy.G.A.

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**HON'BLE MR. JUSTICE FARJAND ALI**

**Order**

**06/11/2023**

1. The instant miscellaneous petition has been preferred under Section 482 CrPC against the order dated 27.06.2014 passed by learned Judicial Magistrate First Class, Jaisalmer in Criminal Original Case No. 439/2014 whereby cognizance was taken



against the petitioner for the commission of offences under Section 3/8 of the Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995 (hereinafter referred to as the Act).

2. Laconically stated, the facts of the case are that an FIR bearing No. 215/2011 came to filed at PS Jaisalmer District Jaisalmer for offences under Section 429 IPC and Section 3/8 of the Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995 alleging that Sujlon Infrastructure Company Ltd. is dumping polythene at the place where the complainant party takes their cattle for grazing and owing to eating of the same, six cattle died on 12.07.2011 and two on 13.07.2011. After investigation, the police filed a negative final report. Thereafter, a protest petition was filed by the complainant Indra Singh. Learned trial court took cognizance of the offences under Section 3/8 of the Act against the petitioner and site in-charge Mr. Shrimali vide order dated 27.06.2014 which is under assail in the present petition.

3. Learned counsel for the petitioner submits that the impugned order has been passed without consideration of the factual and legal aspects of the matter. The company has been working in that area since 1999-2000 and no matter of like nature has been reported against them uptil now. The waste including polythene is disposed of in accordance with the norms applicable. It is further submitted that the present case has been filed out of spite as the complainants wanted to deploy their vehicles in the company but



because they did not fulfill the requirements as per the norms prescribed by the company, they did not land a contract. At the same time, some 200 cows had died owing to hemorrhagic septicemia and the complainant party took advantage of the same by filing the present case against the petitioner. Moreover, a negative final report has been filed in the matter by the police.

4. As opposed to the submissions made by learned counsel for the petitioner, it is submitted by learned Deputy Government Advocate that the FIR discloses circumstances which are substantial enough to make a prima facie case against the petitioner.

5. Heard learned counsel for the parties. Perused the material available on record.

6. In the considered opinion of this Court, it is not fit to let the criminal proceedings continue against the petitioner in the case at hand for the following reasons:

- i) Firstly, Section 3 of the Act relates to prohibition of slaughter of any bovine animal and no offence under this provision can be made out sans slaughter. Section 2(m) of the Act defines slaughter as intentional killing by any method and for any purpose, whatever it may be, thus, in order to constitute an offence under Section 3 of the Act, intention is an essential ingredient. Neither does it seem logical to infer that the company placed polythene intentionally where the cows come to graze nor do the facts and circumstances of the case reflect any intentional placing/disposing of polythene or waste material anywhere in order to slaughter



the cows or cause the cows to be slaughtered or offer them or cause them to be offered for slaughter, therefore, no offence under Section 3 of the Act is made out. Section 8 prescribes the penalty in case of contravention of provision of Section 3 of the Act and the same, by default, does not apply since there is no contravention on account of the petitioner.

ii) Secondly, the principle of vicarious liability does not apply here, thus, the petitioner who is the head of the company cannot be held liable for the actions taken by his employees or by the company per se. Moreover, it is not comprehensible how an owner or head of the company who might not even be in the same city as the plant/factory/site can be held responsible for an animal dying due to choking owing to swallowing of a polythene which can fly from anywhere and get stuck/ accumulated at another place.

iii) In the company of the above two reasons, the submission that the complainant party took advantage of the fact that many cows died due to hemorrhagic septicimia and falsely implicated the petitioner as the company which the petitioner is heading did not enter into an agreement with them for the purpose of deploying their vehicles for company use seems to be worth considering.

iv) It is trite law that while hearing a petition under Section 482 of CrPC for quashing of criminal proceedings, the High Court is not expected to embark upon an enquiry so as to examine the truthfulness and genuineness of the



allegations levelled in the FIR. Certainly, it is a task to be undertaken by the investigating agency and the investigation conducted clearly reveals that there is no involvement of the petitioner in the alleged crime as a negative final report has been filed.

7. Looking to the material collected by the agency till date, a prima facie case is not fathomable against the petitioner, thus, in light of the reasons discussed above, this Court is of the opinion that a case for quashing of the criminal proceedings qua the petitioner is made out and the court is persuaded to allow the instant petition at this stage.

8. Accordingly, the instant miscellaneous petition for quashing of the order dated 27.06.2014 and the criminal proceedings initiated against the petitioner is hereby allowed. The order dated 27.06.2014 passed by learned Judicial Magistrate First Class, Jaisalmer in Criminal Case No. 439/2014 whereby cognizance was taken against the petitioner for the commission of offences under Section 3/8 of the Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995 is hereby quashed and set aside.

9. All pending applications, including the stay petition, stand disposed of.

10. The learned magistrate has not applied his mind aptly in the matter as it is not understandable as to how when neither the ingredients of the offence were present nor was it logical to make an assumption, or even an inference for that matter, by any stretch of imagination that the bovine animals must have ingested



the very polythene that was disposed by the company, then how did the magistrate take cognizance of the alleged offence against the company head, that is, the petitioner. Additionally, how can a company head be held liable for ingestion of polythene by cows while grazing near one of the sites of his company. It is not just required to go through the material available on record or read what has been stated in the negative Final report or other documents and discuss the same in the order passed but it is also required of the court to apply its mind in light of the law applicable in the matter as well as the feasibility of commission of the alleged crime from the facts and circumstances of the case.

11. It is directed to the Registrar General to forward a copy of this order to the learned magistrate.

**(FARJAND ALI),J**

519-Mamta/-