खाजगी कामाकरिता

पाने 5

सही/शीढी

लिहणावळ .....

रूजवात .....

सरचार्ज 35-00

कागद .....

पोस्टेज .....

एकूण फी 35-00

अर्ज क्र. 338 /२०१४
दिनांक 3 / ६ / २०१४

नकलेस अर्ज आला तारिख तीन जुन

अर्जाची पूर्तता झाली तारिख पाच जुन

नक्कल नेण्यास दिलेली तारिख पाच जुन

नक्कल तयार झालेली तारिख पाच जुन

सन्के/रे.के.नं. 33/2013

निशाणी क्र. १६५

दोन हजार चौदा

दोन हजार चौदा

दोन हजार चौदा

दोन हजार चौदा

सहाय्यक अधिक्षक
मुख्य न्यायदंडाधिकारी कोर्ट,
रायगड-अलिबाग
05 JUN 2014

नक्कल अर्जदार तर्फे
श्री ए.ए.पी.पाटील
नक्कल दिली तारीख 05 JUN 2014

सहाय्यक अधिक्षक
मुख्य न्यायदंडाधिकारी कोर्ट,
रायगड अलिबाग

Received On : 05/03/2013
Registered On : 05/03/2013
Decided on : 02/06/2014
Duration : Y. M. D.
01 02 29

IN THE COURT OF THE CHIEF JUDICIAL MAGISTRATE, RAIGAD AT ALIBAG.
(Before S. S. Tambe)

Regular Criminal Case No.33/2013.
Exhibit : 46/B.

Maharashtra Pollusion Control Board)..Complainant.
Sion East, Mumbai 22, (Represented by)
Shri. Bhagavan Solunke)
Regional Officer Raigad)
having his office at Navi Mumbai.)

Versus

[1] M/s. Hi Tech Carbon)..Accused.
A unit of Aditya Birla Nuvo Ltd.,)
village – Talvali and Lohop)
Tal. Khalapur, Dist. Raigad.)
(Summons to be served on)
Shri Vinay Bhalerao Unit Head)
Age : 53 yrs., Occu. Service)
M/s. High Tech Carbon)
village – Talvali and Lohop)
Tal. Khalapur, Dist. Raigad.)
[2] Shri Vinay Bhalerao Unit Head)
Age : 53 yrs., Occu. Service)
M/s. High Tech Carbon)
village – Talvali and Lohop)
Tal. Khalapur, Dist. Raigad.)
[3] Shri. Subhash Deshpande)
Factory Manager,)
Age : 50 yrs., Occu.: Service)
M/s. High Tech Carbon)
village – Talvali and Lohop)
Tal. Khalapur, Dist. Raigad.)

Tambe
02/06/2014

[4] Shri. Prashant Kumbhar)
Officer Safety and Environment)
Age : 50 yrs., Occu.: Service)
M/s. High Tech Carbon)
village – Talvali and Lohop)
Tal. Khalapur, Dist. Raigad.)

CHARGES : Under sections 15 and 16 of the Environment (Protection) Act, 1986 r/w Environment Impact Assessment Notification 2006.

Smt. Minal Manohar, Ld. Adv. for M.P.C.B. Mumbai.
Shri. P. M. Thakur, Ld. Adv. for accused.

JUDGMENT

(Pronounced on 02.06.2014)

1] The complaint was filed on 05/03/2013 against accused No.1 to 4. The process was issued against accued on 19/03/2013 u/sec.15 and 16 of Environment (Protection) Act, 1986 r/w Environment Impact Assessment Notification 2006.

2] The complainant P.W.1 Bhagwan Solunke Regional Officer of M.P.C.B. Board Raigad examined vide Exh.27. He was cross-examined by accused Advocate. Mean time accused No.1 to 4 filed an application vide Exh.41 and 38 to plead guilty and discharge respectively.

3] Accused No.1 has filed an application to plead guilty vide Exh.41 along with documentary evidence vide Exh.42 to 46 to support his contention.

4] Accused No.2 to 4 have filed an application vide Exh.38 u/sec. 245 (1) of Cr.P.C. for discharge.

5] The complainant has filed say to an application of accused No.1 that fine should be allowed as Rs.1,00,000/- which must be deposited to the Board. The complainant further filed written letter addressing to the Adv. of the complainant that accused No.1 is pleading guilty then we may accept plead guilty. The complainant – Board would like to consider plead guilty in favour of the complainant – Board. Hence, it is found that the complainant is having no objection if accused No.1 pleaded guilty and deposited fine to the complainant M.P.C.B.

6] The present complaint is Part Heard in which complainant is examined and his evidence recorded along with the documents. Subsequently, the accused have filed an application to plead guilty and discharge.

7] Heard complainant Adv. Smt. Minal Manohar and accused advocate Mr. P.M. Thakur. They both filed the judgment *M/s. Arvind Ltd., v. Karnataka State Pollution Control Board Cri. Petition No.2782/2008 judgment dtd.17/07/2008* of *Hon'ble Karnataka High Court* and *M/s. Puravankara Projects Ltd., v. Karnataka State Pollution Control Board Cri.Writ Petition No.5205/2008 judgment dtd.07/06/2013*. In both these cases accused pleaded guilty and the amount of fine deposited to the complainant. On this point complainant and accused as well as their Ld. Adv. agreed that accused No.1 is ready to plead guilty and the fine amount to be deposited to the complainant.

8] In this case, accused No.2 to 4 have filed an application

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07/06/2014

u/sec.245(1) of Cr. P.C. Complainant filed say vide Exh.39. The complainant submitted that as the accused do bonafide efforts and accused No.1 is pleading guilty then there will be no any objections. On this point for clarification of the No Objection to accused Nos. 2 to 4 in view of an application Exh.39 say of complainant I heard Ld. Adv. Mrs. Manohar. She submitted that the complainant is having No Objection to discharge the accused Nos. 2 to 4 in this case.

9] Hence, when the complainant is ready to take fine amount of Rs.1,00,000/- from accused No.1 and after that complainant is also ready for not to proceed against accused Nos. 2 to 4 and also given written No Objection vide Exh.39 in favour of accused No.2 to 4 and also in view of two judgments cited by complainant and accused which supports the contention of complainant to settle the dispute by taking fine from the accused.

10] Hence, in the above facts and circumstances, no purpose will be served by keeping the said complaint pending when complainant being M.P.C.B. Board of Govt. of Maharashtra is having no interest to proceed against the accused and they settled their dispute by collecting fine from the accused, this Court proceed to pass the following order :-

O R D E R

[1] Accused No.1 is convicted vide Sec.241 of Cr.P.C. for comming an offence u/sec. 15 & 16 of the Environment (Protection) Act, 1986.

[2] Accused No.1 is hereby directed to pay fine of Rs.1,00,000/- (Rs. One Lakh only) within one week from today before the complainant i.e. M.P.C.B. Board Mumbai i/d. of fine accused No.1 to

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suffer S.I. for three (03) months.

[3] Accused No.2 to 4 are hereby discharged and acquitted u/sec. 15 & 16 of the Environment Protection Act, 1986 from this case.

[4] The complaint is dispose of accordingly.

Tambe
02/06/2014

Alibag.
Date : 02.06.2014.

(S.S. Tambe)
Chief Judicial Magistrate,
Raigad Alibag.
