

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous (Petition) No. 5935/2019

1. Khan Mohammad S/o Shri Ahmad Khan, Aged About 56 Years, R/o Jaisinghpura, Noohe, Mewat, Haryana.
2. Irsad S/o Shri Pahalu, R/o Jaisinghpura, Noohe, Mewat, Haryana.
3. Aarif S/o Shri Pahalu, Aged About 24 Years, R/o Jaisinghpura, Noohe, Mewat, Haryana.

-----Petitioners

Versus

State Of Rajasthan, Through Pp.

-----Respondent

For Petitioner(s) : Mr. Kapil Gupta

For Respondent(s) : Mr. Ramesh Choudhary, PP

HON'BLE MR. JUSTICE PANKAJ BHANDARI

Order

30/10/2019

1. Petitioners have preferred this criminal misc. petition seeking quashing of FIR No.253/2017 and charge-sheet No.1/2018 dated 30.12.2018.
2. It is contended by counsel for the petitioners that on 01.04.2017 Pahalu Khan along with petitioners were going to Haryana in pick-up vehicle bearing registration No.HR/61C/3525 alongwith two cows and calves purchased by them from Jaipur, when they were stopped by a mob. The mob resorted to lynching and in the incident Pahalu Khan, father of petitioner Nos. 2 and 3 expired.
3. It is contended that police submitted charge-sheet under Sections 5, 8 and 9 of Rajasthan Bovine Animal(Prohibition of

Slaughter and Regulation of Temporary Migration or Export) Act, 1995. However, Asstt. Public Prosecutor on behalf of the State moved an application before the Court to the effect that bovine recovered were two milching cows and two calves and there was a ravanna receipt issued by Jaipur Municipal Corporation with regard to sale of cows and calves. There was no investigation conducted with regard to above, hence, further investigation be permitted. The Magistrate permitted the Investigating Officer to conduct further investigation.

4. It is argued by counsel for the petitioners that Section 5(1) of the Rajasthan Bovine Animal(Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995 is attracted only when the bovine is being transported for the purpose of slaughtering or with the knowledge that it may be or is likely to be slaughtered.

5. It is contended that the two milching cows and the calves were purchased by petitioner No.2 for Rs.45,000/- for the purpose of milching, the same were not transported for slaughtering as cows were milching cows and calves were only one to three months old.

6. It is also contended that only to protect the mob which has committed the offence of lynching, police has registered a case under the Bovine Act against the petitioners and deceased Pahalu Khan.

7. It is also contended that petitioners were having a Ravanna receipt issued by Jaipur Nagar Nigam wherein price of bovine was also mentioned.

8. I have considered the contentions and have perused the record.

9. From the order dated 05.07.2019 passed by Additional Chief Judicial Magistrate Behror, it is apparent that the State through learned Public Prosecutor has moved an application before the Court that as per the report of the doctor the cows were milching cows and calves were aged one to three months. The court has also made a mention of Ravanna receipt No.89492 dated 01.04.2019 which establishes that the bovine were purchased for Rs.45,000/-.

10. In my considered view, milching cows with two calves aged one to three months worth Rs.45,000/- cannot be transported for the purpose of slaughtering. There is nothing on record to show that the bovine were being transported for the purpose of slaughtering.

11. No offence under Section 9 of the Act is made out as only minor abrasions which were not severe in nature were sustained by the cows which is a natural consequence when cows are being transported in a pick-up van.

12. Continuation of proceedings against petitioner no.1 who was driver of the pick-up and petitioner Nos.2 and 3 who are son of deceased Pahalu Khan who died on account of attack by the mob would tantamount to abuse of process of law more particularly when petitioner No.2 had purchased the milching cows with their calves for Rs.45,000/-.

13. Continuation of proceedings would tantamount to abuse of process of law and would result in grave injustice to petitioner Nos. 2 and 3 who have lost their father in the incident and petitioner No.1 who was merely a driver and was transporting the milching cows and their calves from Rajasthan to the residence of petitioner Nos.2 and 3 at Haryana.

14. The criminal misc. petition therefore deserves to be and is accordingly allowed. FIR No.253/2017 and charge-sheet No.1/2018 are quashed.

15. Stay application stands disposed.

(PANKAJ BHANDARI),J

HEENA/56

RAJASTHAN HIGH COURT



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