

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

CRIMINAL WRIT PETITION (CWP) NO. 180 OF 2016

(Hanuman Krida Mandal, Panchpaoli, Nagpur & Ors. vs. The State of Maharashtra thr. Chief Secretary, Home Department & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.
DECEMBER 14, 2016.**

Heard Shri S.P. Bhandarkar, learned counsel for the petitioners and Shri T.A. Mirza, learned APP for the respondents.

2. We have also perused the judgment of the Hon'ble Apex Court in the case of State of Andhra Pradesh vs. K. Satyanarayana & Ors., reported at AIR 1968 SC 825 and the later judgment of Division Bench of this Court in the case of Jaywant Balkrishna Sail & Ors. vs. State of Maharashtra thr. Additional Chief Secretary, Home Department & Ors., reported (2012) 5 AIR Bom R 62.

3. The effort of Shri Bhandarkar, learned counsel is to demonstrate that though there are two panchnamas conducted on different dates, both are almost identical and still do not meet the ingredients. There is nothing on record to show that any of the petitioners were receiving any fixed sum as commission and hence the judicial interpretation that Rummy is not a game of luck or chance but game of skill and, therefore, exempt under Section 13 of the Maharashtra Prevention of Gambling Act, 1887, needs to be

accepted.

4. The learned APP is relying upon reply affidavit. He submits that no FIR is registered against any of the petitioners before this Court. He further invites attention to the fact that tokens with figures printed on it were found on table and similar tokens were also kept in an iron box in the custody of another person sitting nearby.

5. During arguments we find that charge sheet is already filed. The individual persons allegedly found to be playing cards at the time of raid are arrayed as accused persons. The office bearers before this court, representing their respective club/ society, are not shown as accused persons. However, Shri Bhandarkar, learned counsel has submitted that because of such raids, the activities of the petitioners are coming to stand still.

6. As FIR in this matter is not against the petitioners, we are not inclined to look into the technical challenge raised by the petitioners. However, we make it clear that the police has to keep in mind the provisions of Section 13 of the above mentioned 1887 Act and its judicial interpretation before proceeding further in such matters.

7. We grant the petitioners liberty to approach again if such an incident is repeated.

8. With this leave and observations we dispose of the present Criminal Writ Petition. No costs.

JUDGE

JUDGE

*GS.