

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3800 OF 2015

Nitin @ Bhagwat s/o. Motiram Rupnar,
Age 19 years, Occu. Education,
R/o. Mukundraj Colony, Ambejogai,
Tq. Ambejogai, Dist. Beed.

....Applicant.

Versus

1. The State of Maharashtra
Through its P.I.
City Police Station, Ambejogai,
Tq. Ambejogai, Dist. Beed.

2. Rameshwar s/o. Mahadev Banale,
Age Major, Occu. Business,
R/o. Parijat Colony, Ambejogai,
Tq. Ambejogai, Dist. Beed.

....Respondents.

Mr. S.B. Bhapkar, Advocate for applicants.

Mrs. V.S. Choudhari, APP for respondent No. 1/State.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.**

DATED : 07/08/2018.

JUDGMENT : [PER T.V. NALAWADE, J.]

1) The proceeding is filed under section 482 of Criminal Procedure Code for relief of quashing of F.I.R. No. 25/2015 registered with City Police Station, Ambajogai, District Beed for offences punishable under sections 457, 380 of Indian Penal Code. Both the sides are heard.

2) The crime is registered on the basis of report given by Rameshwar Banale resident of Ambajogai. He is owner of shop and in his shop, there were bags of Tur and Soyabean on 1.2.2015. He has closed the shop at about 4.30 p.m. On 2.2.2015 at about 7.00 a.m. somebody informed him that the lock of the door of his shop was in broken condition. He went to the shop and he noticed that 28 bags of Tur, having 50 k.g. in each bag and 5 bags of Soyabean having 60 k.g. in each bag were stolen from his shop. The report was given on 2.2.2015 and the crime came to be registered at C.R. No. 25/2015 in Ambajogai City Police Station for aforesaid offences.

3) The papers of investigation were produced and they show that from accused like Pasha, on the basis of statement given under section 27 of Evidence Act, some bags of Tur, stolen property was recovered. The remand report and the submissions made by the learned APP show that the accused, who were arrested and from whom some stolen property was recovered, took the name of present applicant as one of their associate. Thus, there is record like interrogation made with other accused, who took the name of present applicant as accused. Investigating Officer will be giving such evidence as against the present applicant and on the basis of such evidence of Investigating Officer, the conviction cannot be based. This Court holds that it will be futile exercise to make the

present applicant to face the trial for aforesaid offences. In the result, the application is allowed. Relief is granted to him in terms of prayer clause 'B'. Rule is made absolute in aforesaid terms.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

SSC/