

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1573 OF 2019

Datta S/o Laxmanrao Surung,
Age : 32 years, Occ. : Social Work,
R/o: Walkhed, Tq. Partur,
Dist. Jalna

... APPELICANT

VERSUS

The State of Maharashtra,
Police Station, Partur, Ta. Partur,
Dist. Jalna, Through its
Police Inspector

... RESPONDENT

...
Mr. Vishal A. Bagal, Advocate for applicant
Mr. M.M. Nerlikar, A.P.P. for respondent-State
...

**CORAM : T.V. NALAWADE AND
K.K. SONAWANE ,JJ.**

DATE : 19th JUNE, 2019.

ORAL JUDGMENT : (Per: T.V. Nalawade, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for parties..
2. Learned counsel for applicant seeks leave to correct the prayer clause "B". Permission granted. Amendment be carried out forth.

3. Present proceeding is filed by the applicant-original accused for quashing the First Information Report (FIR) bearing Crime No. 0079 of 2019 registered with Partur Police Station, Tq. Partur, District Jalna for the offence punishable under Section 12A of the Bombay Prevention of Gambling Act, 1987. The Crime is registered on the report given by Police Officer. On 25-03-2019, Police received the information against one Satyanarayan Mangilal Sharma that he was indulged in Matka business, gambling and taking Kalayan Matka. On the basis of information, the Police effected raid, on the place described by the informant and they found that Satyanarayan Sharma was taking betting for Kalayan Matka in Hotel. Some material generally used for Matka was recovered from him along with some cash amount. During the interrogation, this Satyanarayan Sharma disclosed that he is agent of Datta Surung i.e. present applicant. On the basis of this disclosure, present applicant came to be arrested and he is made accused in this crime.

4. The aforesaid material and police paper shows that Police implicated the present applicant on the basis of information given by one Satyanarayan Sharma. The learned counsel for the applicant submits that only on the basis of statement made by Satyanarayan Sharma, the present applicant has been falsely involved in the crime. Learned counsel for the applicant submits that applicant had made complaints against for illegal excavation and storage of the sand and due to that he has been falsely

implicated in this crime. Even if the contention of the applicant is ignored, the fact remains that during the course of trial there will be no material against the applicant for proving the offence and nothing can be achieved, if the prosecution is allowed to proceed against the applicant. In the light of above, the Criminal Application deserves to be allowed and relief needs to be granted in favour of applicant.

5. Accordingly, Criminal application is allowed in terms of prayer clause "B" to the extent of present applicant only.

6. Rule is made absolute in above terms. No order as to costs.

Sd/-

[K.K. SONAWANE]
JUDGE

Sd/-

[T.V. NALAWADE]
JUDGE

MTK