

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2338 OF 2018

Awais Khan S/o Ahmed Khan Pathan,
Age: 40 years, Occ: Business,
R/o Pathan Mohalla, Jintur,
Tq. Jintur, Dist. Parbhani.

.. **Applicant**

Versus

The State of Maharashtra,
Through Jintur Police Station,
Tq. Jintur, Dist. Parbhani.

.. **Respondent**

...

Mr. G.R. Syed, Advocate for the Applicant.
Mr. S.J. Sangle, APP for the Respondent-State.

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**CORAM : T.V. NALAWADE &
M.G. SEWLIKAR, JJ.**
DATE : 20.02.2020

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

Rule. Rule made returnable forthwith. By consent heard both the sides for final disposal.

2. The proceeding is filed for relief of quashing of F.I.R. No. 256 of 2018 registered with Jintur Police Station, District Parbhani for the offences punishable under Section 182, 186, 193 and 211 of the I.P.C. The crime is registered on the basis of report given by one P.S.I.

3. The submissions made and the record show that on 11.08.2018 the present applicant had approached police and he had informed that one Shaikh Salim Shaikh Latif had started making construction which was illegal in the market place which was the disputed place. After receipt of this application police visited the spot and noticed that construction was going on. Relevant record was produced on that day. The applicant was asked to produce the record but the applicant could not produce the record. On the next day i.e. on 12.08.2018 the applicant again approached police and showed photographs and contended that illegal construction was going on. Police made inquiry and they found that no such construction was started on 12.08.2018 and so the report of aforesaid nature is given i.e. false information was given by the applicant to police.

4. In ordinary course when complaint of such nature is given, market place is a public place and if police finds that somebody is making construction in public place it is the duty of the police to ascertain as to whether the person who was making construction had any right or authority to make such construction. It was not proper on the part of the police to ask the present applicant to produce such record. On that day admittedly the police had stopped the construction. If on the next day he had approached

with a similar grievance and police found that the photographs which were supplied were of previous day, only on that basis it cannot be inferred that false information was given on 12.08.2018. If such approach is used by police nobody will come forward to raise grievance when illegal activity is going on in public property. This Court holds that it was unnecessary report given by police and such report ought to have been avoided. It will be unnecessary harassment to the present applicant and so the following order is made. Application is allowed. Relief is granted in terms of prayer clause-B. The case bearing S.C.C. No. 975 of 2019 presently pending in the Court of J.M.F.C., Jintur is also quashed and set aside. Amendment to mention this proceeding needs to be made immediately. Rule made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]