

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

CRIMINAL APPLICATION NO. 2770 OF 2018

Prashant Premchand Sancheti,
Age 30 years, Occu. Business,
R/o. Vipra Nagar, Bamanwadi,
Beed, Tq. and District Beed.

....Applicant.

Versus

1. The State of Maharashtra,
Through Beed City Police Station,
Beed, Tq. and Dist. : Beed.
2. Babasaheb Machindra Mhaske,
Age 32 years, Occu. Business,
R/o. Palwan, Tq. and District Beed.

....Respondents.

Mr. P.D. Bachate, Advocate for applicant.

Mr. S.G. Sangle, APP for respondent No. 1/State.

Mr. S.J. Salunke, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 28/02/2020.

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

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

2) Present proceeding is filed for relief of quashing of F.I.R. No. 179/2018 registered with Beed City Police Station, Tahsil and District Beed for the offences punishable under sections 147, 148, 149 of Indian Penal Code, section 3 r/w. 25 of Arms Act, 1969 and

section 135 of Bombay Police Act, 1951. The crime is registered on the basis of report given by respondent No. 2. It is his contention that he had gone to the shop of applicant on 9.9.2018 at about 11.20 p.m. for purchasing Gutkha and when he asked the shop owner about Gutkha, the shop owner became angry with him. It is his contention that he and his friend left the shop and started towards his village Palwan on their motorcycle. It is his contention that his motorcycle was intercepted near Zunjar Neta Office, Beed by 5-6 persons who included the present applicant. It is contended that they assaulted him with fist blows and kicks and one of them had shown fire arm to him for giving him threat. It is contended that after giving of report and narrating the incident, police called present applicant and others and then he learnt the name of the present applicant as Prashant Sancheti. In view of the nature of allegations, the crime was registered for aforesaid offences.

3) The police papers show that till today police could not collect convincing material to form opinion as to whether offence was really committed. They collected C.C.T.V. footage and they found that at the relevant time in the shop, present applicant was not present, but his brother was present and the applicant was in his house. They could not get any other witness in support of the allegations made by the informant and his friend. There are some statements showing that some beating was given, but those

statements do not show that they had seen any firearm with either applicant or persons who were in his company. Thus, apparently some non cognizable offence took place. The other persons did not know the present applicant and it is the contention of only informant and his friend that applicant was present in those boys.

4) The learned counsel for applicant submitted that applicant has some dispute with Ashok Roman and at the instance of Ashok Roman false report was given against him by the present informant. Copy of F.I.R. given by applicant against Roman dated 24.5.2018 is produced. Ashok Roman had filed proceeding in this Court for quashing of the F.I.R., but Ashok Roman could not succeed in that case. There was allegation against Ashok Roman and others that they had used firearm. Thus, similar allegations are made against the present applicant, but by other person. The news cutting shows that steps like passing externment order were taken against Ashok Roman in the past.

5) As in the present matter, the investigating agency could not form opinion till today that fire arm was used or such incident did really take place. The informant himself admits that he was making inquiry of Gutkha in the shop when Gutkha is banned in Maharashtra. This Court holds that it will be abuse of process of law if the applicant is asked to face the trial for aforesaid offences. In the

result, the application is allowed. Relief is granted in terms of prayer clause 'C'.

Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

ssc/