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

**CRIMINAL APPLICATION (APL) NO.500 OF 2018**

Dilip Shankarrao Kherde,  
Aged about 45 years,  
Occupation – Farmer,  
R/o Near Deshbandhu Vachanalay  
Warud, Taluka Warud, District Amravati. .... **Applicant.**

**:: V E R S U S ::**

1. The State of Maharashtra,  
Through Police Station Officer,  
Police Station Warud,  
District Amravati.

2. Gorakh Vishwanath Dive,  
Aged about 52 years,  
Occupation – Police Inspector,  
R/o Qtr.No.3, Old By Pass, Ashiyana  
Police Qtr.Amravati. .... **Non-applicants.**

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Shri S.V.Sirpurkar, Counsel for the Applicant.  
Shri N.S.Rao, Addl.PP. for non-applicant No.1/State.

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**CORAM** : **VM.DESHPANDE, &**  
                  **ANIL S.KILOR, JJ.**  
**DATE** : **DECEMBER 8, 2020**

**ORAL JUDGMENT** (Per : V.M.Deshpande, J.)

1. Heard learned counsel Shri S.V.Sirpurkar for the  
applicant and learned Additional Public Prosecutor Shri N.S.Rao

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for non-applicant No.1/State. **Rule.** Rule is made returnable forthwith. Heard finally by consent of learned counsel for parties.

2. First Information Report No.208/2018 registered with Warud Police Station, District Amravati for offences punishable under Sections 182 and 211 of the Indian Penal Code, under Sections 3 and 25 of the Arms Act, 1959, and under Section 135 of the Bombay Police Act, 1951 is lodged by non-applicant No.2- Gorakh Vishwanath Dive, who at the relevant time was Police Inspector of the said police station.

3. According to the prosecution, as it could be seen from reply, a crime bearing Crime No.182/2018 was registered against Gajanan Dhoke on report lodged by Sangeeta for offences punishable under Sections 354, 354-A, 354-B, 366, 377, 511, and 506 of the Indian Penal Code under Section 3 and 25 of the Arms Act. Said accused Gajanan Dhoke was arrested. During investigation of the crime, statement of one Sanjay Deshmukh was recorded. It is stated that said Sanjay Deshmukh gave information to the Sub Divisional Police Officer at Morshi that one Ganesh, the younger brother of accused Gajanan, concealed fire arm (pistol)

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under small bushes near his house. Accordingly, said pistol was seized and in Crime No.182/2018 offences under Sections of the Arms Act were added. It is also stated in the reply that during investigation said Sanjay Deshmukh disclosed that present applicant, i.e. Dilip Shankarrao Kherde, intimated him about concealment of the pistol by Ganesh, the brother of Gajanan. Therefore, non-applicant No.2 registered offences against the applicant.

4. Sections 182 and 211 of the Indian Penal Code, in our view, are not at all applicable in the aforesaid given facts. Further, the weapon was also not possessed or recovered from the applicant. Therefore, the offence under the penal provisions of the Arms Act also cannot be instituted against the applicant.

5. On 28.11.2018, this Court (Coram : S.B.Shukre and S.M.Modak, JJ.) has already directed the State not to file chargesheet, if it is not already filed. Learned Additional Public Prosecutor Shri N.S.Rao for the State, submits that till 28.11.2018 the chargesheet was not filed.

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6. In the backdrop of facts narrated in preceding paragraphs, we are of view that the application needs to be allowed. Consequently, we pass following order:

**ORDER**

(1) The criminal application is allowed.

(2) First Information Report No.208/2018 registered with Warud Police Station, District Amravati for offences punishable under Sections 182 and 211 of the Indian Penal Code, under Sections 3 and 25 of the Arms Act, 1959, and under Section 135 of the Bombay Police Act, 1951 is hereby quashed and set aside.

The criminal application stands disposed of accordingly.

**JUDGE**

!! BRW !!

**Bhushan  
Wankhede**

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**JUDGE**

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