

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 3036 OF 2021

Ameya Avinash Gokhale

... Petitioner

V/s.

The State of Maharashtra

... Respondent

Mr. Aneesh Deshpande for the Petitioner

Mr. K.V. Saste, APP for the Respondent - State

***CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.***

DATE : 6 OCTOBER 2021

P.C. :-

Heard the learned Counsel for the Petitioner and the learned APP for the State.

2. By this Petition the Petitioner seeks to quash the Criminal Case No. PS/7100696/2020 pending before the learned Metropolitan Magistrate, 71st Court, Bandra, Mumbai.

3. The First Information Report No.94 of 2018 came to be registered against the Petitioner for offences punishable under Section 4(a) and Section 5 of the Maharashtra Prevention of

Gambling Act. The Petitioner has sought to quash the proceedings on two grounds contending that there is a bar of limitation for taking cognizance of the offence aforesaid under the Code of Criminal Procedure and therefore, the learned Magistrate could not have taken cognizance. The second argument that is advanced is based on Section 6 of the Maharashtra Prevention of Gambling Act that for entry and search has to be by the Police Officer in a gaming houses in any area for which a Commissioner of Police not below the rank of a Sub-Inspector and empowered either by general or special order in writing, and there is reference to the same in the charge-sheet.

4. As regard the first contention is concerned, the learned Counsel for the Petitioner has contended that Section 5 of the Maharashtra Prevention of Gambling Act provides for imprisonment of six months and as per Section 468(2)(b) of the Code of Criminal Procedure the limitation for taking cognizance would be of one year. It is submitted that as per the case of the prosecution itself the offence was committed on 12 August 2018 and the charge-sheet ought to have been filed by 31 August 2019 and the order was passed by the learned Magistrate on 21 December 2020. The argument of the learned Counsel for the Petitioner overlooks that Section 4(a) of the Gambling Act is also invoked which provides for punishment which may extend to two years, and the provisions of Section 468(3) of the Code of Criminal Procedure.

5. Second contention as regarding the authorization as rightly pointed out by the learned APP, it would be an argument that the Petitioner will have to make before the learned Magistrate.
6. This case cannot be considered that as of legal bar as ground for quashing the criminal case.
7. The Writ Petition is rejected.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

**JYOTI
PRAKASH
PAWAR**

Digitally signed
by JYOTI
PRAKASH
PAWAR
Date: 2021.10.11
15:13:02 +0530