

Tohid Bahhoddin Shaikh ...Petitioner
vs.
1. The State of Maharashtra
& Anr. ...Respondents

**CORAM : S. S. SHINDE &
 N. J. JAMADAR, JJ.**

PC.:

1. The petition is preferred to quash and set aside the first information report bearing No. 33/2017 registered with Rafi Ahmad Kidwai Marg Police Station, Mumbai for the offences punishable under sections 7(1), (2), (4), (5) and section 20(1), (2) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, and sections 3 and 181 of the Motor Vehicles Act, 1988.
2. Heard Mr. Tushar Sonawane, the learned counsel for the petitioner.
3. Mr. Sonawane made an earnest endeavour to demonstrate that the product which was allegedly seized from the vehicle, which the petitioner was driving, in the receptacle labelled “Vimal Pan Masala” did not contain

tobacco product and the allegation that another receptacle labelled “V1 Tobacco”, which contained the tobacco product, had no pictorial warning is factually incorrect. Mr. Sonawane tried to persuade the Court to examine the receptacle/pouches which, according to Mr. Sonawane, clearly indicate that the said receptacle/pouches had the requisite pictorial warning.

4. The aforesaid submission indicates that the issues sought to be raised on behalf of the petitioner are clearly rooted in facts. In exercise of inherent jurisdiction under section 482 of the Code of Criminal Procedure, 1973, what the Court is expected to consider is whether an offence is not made out on the basis of the uncontroverted allegations in the first information report. We, therefore, decline the invitation of Mr. Sonawane to delve deep into the facts and determine the question as a fact finding Court would do. Thus, we are not persuaded to entertain the petition.

However, we make it clear that the petitioner may avail the appropriate remedy before the jurisdictional court. We may not be understood to have entered into the merits of the matter.

5. With the aforesaid clarification, the petition stands dismissed.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)