

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

CRIMINAL APPLICATION NO.1667 OF 2022

**SUDARSHAN BALAJI SARPATE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. Sanjaykumar Chavan, Advocate h/f Mr. P. V. Ambade, Advocate for the applicant
Mr. S. D. Ghayal, APP for the respondent Nos. 1 and 2.

**CORAM : SMT. ANUJA PRABHUDESSAI AND
R. M. JOSHI, JJ.**

DATE : 12th JANUARY, 2023

PER COURT :-

1. With consent, heard learned for the applicant and learned APP for the respondent Nos. 1 and 2, finally at the stage of admission.
2. This is an application under Section 482 of the Code of Criminal Procedure to quash FIR bearing Crime No. 121 of 2022 registered with Vimantal (Airport) Police Station, Nanded, Dist. Nanded for the offences under Section 6, 25 of Arms Act and 34 of the Indian Penal Code.
3. We have perused the records and considered the submissions advanced by learned counsel for the respective parties.
4. The aforesaid crime was registered pursuant to the first

information report lodged by the respondent No. 2. The respondent No.2 had alleged that on 7th April, 2022 at about 23.44 hours while he was on patrolling duty he received information that two persons who were behind Mahindra Tractors showroom at Shivernri Nagar were in possession of fire arm and were moving around in suspicious manner. The applicant and another person were apprehended. It is alleged that the applicant was found in possession of duplicate pistol which was seized in presence of panchas. On the basis of the said information the aforesaid crime has been registered against the applicant and the co-accused.

5. The applicant is alleged to have committed offence under Section 6 of the Arms Act, 1959. Section 6 provides that no person shall shorten the barrel of a firearm or convert an imitation firearm into a firearm or convert from any category of firearms mentioned in the Arms Aules, 2016 into any other category of firearms, unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder. The explanation to this Section states that the expression "imitation firearm" means anything which has the appearance of being a firearm, whether it is capable of discharging any shot, bullet or other missile or not. In the instant case, the first information report itself reveals that the pistol which was recovered from

the applicant was a duplicate pistol approximate value of which was Rs.1,000/-. The first information report and the other material collected in the course of investigation does not indicate that the applicant herein had converted the said pistol into a firearm within the meaning of Section 2(c) of Arms Act. In the absence of such allegations and material in support thereof no offence is made out as against the applicant for having committed offence under Section 6 of the Arms Act.

6. Having considered the first information report even if accepted in his entirety, does not disclose the offence as alleged. Hence the case is fully covered under illustration 1 of in the case of ***State of Harayana and others Vs. Ch. Bhajan Lal and others, 1992 AIR 604***. In the result continuance of proceedings would be abuse of process of law. Hence the application is allowed in terms of prayer clause 'B'. FIR No. 121 of 2022 registered with Vimantal Police Station, Nanded stands quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

ssp