

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

CRIMINAL WRIT PETITION NO.1270 OF 2022

Ashok Kumar Ramnaresh Zha	..Petitioner
Vs.	
The State of Maharashtra and anr.	..Respondents

Mr.Tapan Sant, Advocate for petitioner
Mr.M.M.Nerlikar, APP for respondent no.1

**CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : SEPTEMBER 14, 2023**

ORDER (Per Sanjay A. Deshmukh, J.) :-

By this petition, the petitioner prays for quashment of the FIR, being Crime No.283 of 2019, registered with Amalner Police Station, Dist. Jalgaon, for the offences punishable under Sections 328, 188, 272 read with Section 34 of Indian Penal Code and Section 59 of the Food Safety and Standards Act, 2006 and the consequential charge sheet No.249 of 2022.

2. Heard learned counsel for the parties. Perused the FIR and related papers.

3. The petitioner is alleged to have supplied contraband articles namely, Pan Masala/scented tobacco. The petitioner hails from the State of Madhya Pradesh. In that State, there is no ban for sale of Pan Masala/scented tobacco. As per the case of prosecution, the contraband articles were seized from the co-accused in the State of Maharashtra. The co-accused purchased those articles from the present petitioner in the State of Madhya Pradesh, wherein he was permitted to sale the same. As such, present petitioner has not contravened any notification issued by the Government of Maharashtra nor he can be said to have committed any offence in the State of Maharashtra.

4. What is there is the statement of the co-accused to indicate the petitioner to have supplied those articles. The said statement is not admissible in evidence. Even, the petitioner admits the case of having sold the same but it was sold in the State, where it is permissible to sell.

5. As such, directing the petitioner to stand trial based on such material, would be an abuse of process of the court. In the circumstances, the petition deserves to be allowed.

6. In the result, the petition is allowed in terms of prayer clauses (B) and (D-1).

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP