



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.602 OF 2023

Shaikh Wasimuddin Shaikh Sirajuddin Inamdar,  
age 47 years, Occ. Business,  
R/o Makhsood Colony, Behind Heena Petrol Pump,  
Barshi Naka, Beed, Tq. & Dist. Beed. Applicant

Versus

1. The State of Maharashtra,  
through Police Station Majalgaon (Rural),  
District Beed.
2. Police Head Constable,  
Babasaheb Rangnath Bangar,  
age 46 years, Occ. Service,  
R/o. S.D. P.O. Office, Kaij,  
District Beed. Respondents.

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Advocate for Applicant : Mr. K.R. Yadav Lonikar h/f Mr. S.J. Salunke  
APP for Respondents: Mrs P. R. Bharaswadkar  
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CORAM : SMT. VIBHA KANKANWADI &  
S. G. CHAPALGAONKAR, JJ.

Dated : September 04, 2024.

**ORDER** :- (Per S.G. Chapalgaonkar, J.)

1. The applicant seeks to quash the FIR No.56 of 2022 dated 31.3.2022 registered with police station Majalgaon (Rural), District Beed for the offence punishable under sections 328, 272, 273, 34 of the Indian Penal Code as well as RCC No.4 of 2023 pending before the Judicial Magistrate First Class, Majalgaon, District Beed.

2. Respondent No.2 lodged a FIR with Majalgaon (Rural) police station alleging that on 30.3.2022 he was summoned by Deputy Superintendent of Police, Kaij and informed that as per secret information, contraband (Gutkha) is stored in a Tin-shed adjacent to the house of one Momin Shafik at Patrud. Accordingly, informant was asked to proceed to the spot alongwith police persons and panch witnesses to carry the raid. In pursuance of such instructions, tin-shed was raided and contraband (Gutkha) worth Rs.4,22,180/- has been seized. Similarly, contraband worth Rs.28,26,710/- was seized from a field a Lavul road. Suspect Momin Shafik Abdul Majid was arrested alongwith his companion. On the basis of such information, crime no.0056 of 2022 dated 30.3.2022 has been registered with police station Majalgaon (Rural).

3. Investigation progressed. On conclusion of the investigation charge-sheet has been filed against in all ten accused persons including applicant for the offences punishable under sections 328, 272, 273, 34 of the Indian Penal Code.

4. Mr. Yadav (Lonikar) h/f Mr. S.J. Salunke, learned advocate appearing for the applicant submits that applicant has been falsely implicated in the aforesaid crime. He would point out that name of the applicant is recorded in FIR on the basis of information given by accused Momin @ Babu, who alleges that contraband namely Hira Gutkha has been procured from the Gutkha Manufacturer at Gulbarga through the applicant. He would therefore submit that entire charge-sheet nowhere

discloses involvement of the applicant in commission of offence. There is absolutely no evidence to show complicity of the applicant in commission of offence.

5. Mrs. Bharaswadkar, learned APP strongly opposed the application.

6. We have considered the submissions advanced by learned advocates appearing for the respective parties. Apparently, on the basis of secret information, police party raided a premises situated at Patrud, Tq. Majalgaon. Suspect namely Momin @ Babu was arrested on the spot alongwith the contraband i.e. Gutkha. First Information Report further stipulates that suspects Momin @ Babu Shafik Abdul Majid informed about source of contraband procured by him. So far as contraband namely Goa Gutkha is concerned, he states that that was procured through Wasim Khan from manufacturer at Gulbarga.

7. Perusal of the charge-sheet would show that police authorities have not carried out any investigation to verify correctness of the information. None of the witness cited in the charge-sheet stipulates role of the applicant in commission of offence. Arrested accused was subjected to police custody. However, material information could not be gathered to connect the applicant with commission of offence. Statement of arrested accused attributing link of applicant is not made part of charge-sheet. Stipulations in FIR does not find support from contents of the charge-sheet. Even otherwise, statement of co-accused alleged to have been given before the police

would not constitute evidence sufficient for prosecution against the applicant.

8. Since charge-sheet sans requisite material to proceed against the applicant, there is no reason to permit continuation of the criminal proceeding as against him. In the result, criminal application succeeds. Hence, we proceed to pass the following order.

**ORDER**

- i. Criminal Application is **allowed**.
- ii. The First Information Report No.56 of 2022 dated 31.3.2022 registered at Police station Majalgaon (Rural), District Beed for the offence punishable under sections 328, 272, 273, 34 of the Indian Penal Code as well as proceeding in RCC No.4 of 2023 pending before the Judicial Magistrate First Class, Majalgaon District Beed are hereby quashed and set aside as against the applicant- Shaikh Wasimuddin Shaikh Sirajuddin Inamdar.
- iii. Criminal application stands **disposed off**.

( S. G. CHAPALGAONKAR )  
Judge

( SMT. VIBHA KANKANWADI )  
Judge

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