



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CRIMINAL WRIT PETITION NO.1907 OF 2024

Raj Kala, Krida va Sankritik Mandal,
Head Quarter : Chinchwadgaon,
Tq. Wadwani, Dist. Beed
Through it's Chairman
Arvind Ankush Galande,
Age 39 yrs., Occ. Agri. & Social Worker,
R/o Chinchwadgaon, Tq. Wadwani,
Beed.

... Petitioner

... Versus ...

- 1 The State of Maharashtra
Through the Special Inspector
General of Police,
Aurangabad Region, Aurangabad.
- 2 The Superintendent of Police,
Beed.
- 3 Ram Sadashiv Padwal,
Police Inspector,
Police Station, Ambajogai (Rural),
Tq. Ambajogai, Dist. Beed.
- 4 Balraje Bhagwat Darade,
Assistant Police Inspector,
Police Station, Ambajogai (Rural),
Tq. Ambajogai, Dist. Beed.

... Respondents

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Mr. R.C. Bora, Advocate for petitioner
Mr. N.R. Dayama, APP for respondent Nos.1 and 2

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**CORAM : SMT. VIBHA KANKANWADI &
ROHIT W. JOSHI, JJ.**

DATE : 10th DECEMBER, 2024

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 The petitioner, which is stated to be a duly registered Trust under the Maharashtra Public Trust Act, is promoting and training of sports and games in the rural areas. By invoking constitutional powers of this Court petitioner seeks following relief :

(B) By way of writ of mandamus, or any other appropriate writ, order or directions in the like nature, to direct the respondent Nos.1 and 2 to initiate the legal action i.e. registration of offence, removal from service, departmental enquiry and disciplinary action against respondent Nos.3 and 4, for their unlawful and illegal acts of false accusation of the petitioner Trust and its members, their arrest and consequential mental stress and agony, insult, humiliation, harassment and frustration, in the offence so registered which is purely sheer abuse of the process of law and misuse of the power.

(C) Further, to direct respondent Nos.3 and 4 to pay the petitioner and its members the compensation, personally, jointly and severally, for lodging a purely false case, unlawful and illegal arrest, which was a calculated assault over their personal liberty, dignity and the reputation of the petitioners.

2 Heard learned Advocate Mr. R.C. Bora for petitioner and learned

APP Mr. N.R. Dayama for respondent Nos.1 and 2. No necessity to issue notice to respondent Nos.3 and 4 as they have been made party respondent in their personal name, though they are holding post with Ambajogai Police Station.

3 The petitioner contends that respondent No.4 has filed First Information Report vide Crime No.311/2024 on 19.10.2024, for the offence punishable under Sections 4 and 5 of the Maharashtra Prevention of Gambling Act, 1887. According to the petitioner, said First Information Report is false. They had approached respondent No.2 – Superintendent of Police, Beed with a complaint and requested respondent No.2 to take appropriate action against respondent Nos.3 and 4. As respondent No.2 has not taken any action, writ petition is filed. According to the petitioner, the personal liberty, dignity and reputation of the petitioner Trust and its members as guaranteed under Article 21 of the Constitution of India has been jeopardized. The indoor games which are taken up in the petitioner Trust are – Chess, carom, Bridge (Cards), Table Tennis etc. and outdoor games are – Cricket, Golf, Squash, Soft ball etc. No special warrant was issued by District Magistrate or any other Magistrate; yet, search/raid was conducted and at that time CCTV power connections were forcibly broken. The DVR was also seized by breaking its locker. 45 persons were present

while the raid was conducted but more than 22 persons were provided with the safe passage to escape from the crime on telephonic instructions of a political leader. The action taken by respondent Nos.3 and 4 is *mala fide*. Hence, the petition.

4 In support of his submissions the learned Advocate for petitioner relies on the decision in **Maroti Gangaram Nandane and others vs. The State of Maharashtra and another** in Criminal Application No.1763 of 2022 with companion matters decided by Full Bench on 08.03.2024, wherein the issue referred for adjudication by the Full Bench was whether an Assistant Superintendent of Police – ASP, without having been specially empowered by the State Government – SG, has an authority to exercise power covered by sub-clause (a) to (d) of Section 6(1) of the Maharashtra Prevention of Gambling Act, and it has been answered in the affirmative. He also relies on the decision in **Sanjeevani Krida Va Sanskrutik Mandal vs. State of Maharashtra and others** in Criminal Writ Petition No.2518 of 2017 decided at the Principal Seat on 02.08.2021, wherein observations from paragraph No.4 from **Vijeta Krida, Sanskrutik and Manoranjan Mandal vs. State of Maharashtra and others** in Criminal Writ Petition No.155 of 2014 and companion matters decided on 29.06.2016 was relied and similar order was passed. The said paragraph No.4 runs thus -

“4. We observe that as long as the petitioners continue to carry on activities, which are in accordance with law, there is no need for police to interfere. But, in case there is reasonable ground with the police, then in such circumstances the concerned Agency would resort to appropriate steps to verify as to whether such social clubs are functioning in accordance with law.”

5 The first and the foremost fact to be noted is that when an offence has been registered, a third person cannot seek compensation for alleged illegal arrest. It has to be by the concerned accused who has been illegally arrested. A Trust cannot represent such accused or member. If the petitioner is of the opinion that while conducting the said raid any offence has been committed by the Police Officers, then the Trust was at liberty to lodge a report. Mere representation will not suffice and further when no cognizance has been taken of the said complaint or representation by respondent No.2, still the petitioner had the option to approach Magistrate having competent jurisdiction. Now, it is to be noted that a raid has been conducted and as per **Maroti Gangaram Nandane** (supra) even ASP has powers covered by sub-clause (a) to (d) of Section 6(1) of the Maharashtra Prevention of Gambling Act. Here, respondent Nos.3 and 4 are the Police Inspector and Assistant Police Inspector. There is absolutely pleading in the petition that they are empowered under Section 6 of the Maharashtra Prevention of Gambling Act. Further, the investigation is still not complete

and, therefore, it will not be appropriate to this Court to express that respondent Nos.3 and 4 would not have got the special warrant issued from the appropriate authority. In **Maroti Gangaram Nandane** (supra) various Government Resolutions were placed, wherein the State Government has empowered Taluka Magistrate, Assistant and/or Deputy Superintendent of Police for issue warrant for exercising powers under Sub Clause (a) to (d) of Section 6 of the Maharashtra Prevention of Gambling Act. Possibility of such warrant taken in this case also cannot be ruled out. The contentions in the petition are vague and for sweeping acts writ of mandamus cannot be issued. Further, we find prayer clause 'B' to be a back door entry to get the quashment of the First Information Report on behalf of the members by the Trust. Such writ petitions allegedly in the representative capacity for quashing the First Information Report cannot be allowed. Further, we have considered the police papers and it can be found that huge cash was found i.e. amounting to Rs.50,31,176/-. If the Trust is promoting the sports, the members will not come with such a huge amount of cash. No case is made out for entertaining the writ petition by exercise of the constitutional powers of this Court. Hence, petition stands dismissed.

(ROHIT W. JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)

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