



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 1371 OF 2024

Samiullah Khan Azmathullah Khan,
aged about 44 yrs, Occ. Business,
R/o C/o Azmathullah Khan,
3-3-198, Panjesha Colony,
Adilabad, District Adilabad
(Telangana) 504 001

..... **APPLICANT**

..V E R S U S..

1. The State of Maharashtra,
through Police Officer Khandala
Police Station, Dist. Yavatmal

2. Food Safety Officer,
Food & Drug Administration (MS)
Yavatmal, Tq. Dist. Yavatmal

.....**NON-APPLICANTS**

Mr. S.A. Mohta, Advocate for Applicant.
Mr. H.R. Dhumale, APP for non-applicant/State.

CORAM:- AVINASH G. GHAROTE & ABHAY J. MANTRI, JJ.
DATE : 17.12.2024

JUDGMENT (Per : Abhay J. Mantri, J.)

Heard. Admit. By consent of learned Counsel for the
parties, the matter is taken up for the final disposal.

2. The applicant has invoked the inherent jurisdiction of
this Court under Section 482 of the Criminal Procedure Code and
528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 to quash the

First Information Report (for short- "*FIR*") bearing No. 24/2024, registered with Khandala Police Station, District Yavatmal, for the offences punishable under Sections 26(2), 27(3), 30(2)(a) of the Food Safety and Standards Act, 2006 (for short- "*the Act*",) and Sections 188, 328 and 273 of the Indian Penal Code ("*IPC*", - for short).

3. Succinctly, the prosecution case is as under:

On 09.02.2024, the complainant – the Food Safety Officer, received the information from the Police Inspector, Khandala Police Station, as per the secret information about the transportation of contraband articles, i.e. pan masala, gutkha and flavoured tobacco in a huge quantity. The complainant, along with the police squad, laid a trap on Pusad-Washim Road near Adgaon Fata of Yavatmal district. At that time, at about 11.30 p.m., one Mahendra Bolero vehicle bearing No. MH 29 R 2010 was proceeding at high speed. The squad tried to intercept it, but the driver did not stop the vehicle and proceeded ahead towards Pusad. On the way, the vehicle gave a dash to the stone board. Hence, the police seized the Bolero jeep, and the complainant lodged a report against the driver, the vehicle owner and the applicant.

4. During the investigation, the police found a huge quantity of contraband articles, namely pan masala, gutkha, and flavoured tobacco, in the vehicle. After the dash, the driver of the vehicle fled away from the spot. The investigation officer found that the contraband articles were purchased from the applicant; hence, the applicant was roped into the offence as accused.

5. Being aggrieved by the registration of FIR, the applicant has preferred this application to quash and set aside the FIR since the allegations made do not constitute the commission of any of the offences.

6. Mr. Mohta, the learned Counsel for the applicant, has vehemently contended that the applicant has no concern with the alleged offence, but he has been falsely implicated in this crime merely on suspicion, the applicant has no concern with the seized contraband, and therefore, the implication of the applicant in this crime is contrary to the provisions of law. It is further canvassed that in Telangana State, there is no prohibition on the sale, transportation, distribution, and storage of scented tobacco. Since the applicant has not contravened any notification as alleged in the

FIR, on that ground alone, the FIR cannot be sustained in the eyes of the Law against the applicant.

7. He further propounded that the applicant is a resident of Telangana State, and nothing has been brought on record to show that he has committed a crime within the jurisdiction of Maharashtra State; on this count also, the applicant's implication in the crime cannot be sustained in the eyes of the law. The allegations levelled, *prima facie*, do not disclose the occurrence of the offence as alleged by the informant, and therefore, he has urged for quashing the FIR.

8. *Per contra*, the learned APP has argued that during the investigation, it revealed that the accused No.1 Amjadjkhan was the driver and his brother Imtiyazkhan was the owner of the vehicle. They purchased the contraband articles from the applicant in Telangana State, which shows that the applicant is also involved in the crime. Hence, he has contended that the application is without merit and is liable to be dismissed.

9. We have appreciated the rival contentions of the parties, perused the FIR and record, and gone through the relevant provisions, i.e. Sections 26, 27, 29, and 30 of the Act.

10. At the outset, the prosecution case is that accused Nos. 1 and 2 purchased the seized contraband articles from the applicant in Telangana State. While transporting them in Maharashtra State, on Pusad-Washim road, near Aadgaon Fata, the police tried to intercept the vehicle, causing an accident. The only allegations against the applicant are that the contraband articles were purchased from him in Telangana State. Hence, the police have registered an FIR against the applicant.

11. It is not the case of the prosecution that they have seized the contraband articles from the possession of the applicant or that any of the witnesses have stated that the applicant knew that the said contraband articles were purchased by accused Nos. 1 and 2 to sale the same in Maharashtra. No material has been brought on record to prima facie connect the applicant with the seizure of the said articles or the present crime. Undisputedly, the contraband articles were seized in Maharashtra and accused Nos. 1 and 2 were

also arrested in Maharashtra. Except for the said allegations, no material has been produced on record to show that the applicant has any concern with the said articles or that the applicant, with intent to sell the same in Maharashtra State, sold the same to accused Nos. 1 and 2.

12. As per the prosecution case, the contraband articles were seized within the territory of Maharashtra State. It has not been brought to our notice that during the investigation, the Investigating Officer seized any contraband article from the applicant's possession to connect him to the present crime. Similarly, the prosecution has failed to point out from the statement of the witnesses that the applicant has sold the contraband to accused Nos. 1 and 2 to sell it within Maharashtra, even assuming that there is prohibition in the State of Telangana on manufacture, storage, distribution or sale, in that eventuality also if the applicant has committed any offence, the same would be said to be committed within the territorial jurisdiction of Telangana State and in that case, the offence has to be registered in the Telangana State against the applicant and not within the jurisdiction of the police station in Maharashtra. The prosecution failed to show that the applicant is also responsible for

violation of the provisions of the Act within the State of Maharashtra. Except for the allegation that accused Nos. 1 and 2 purchased the contraband articles from the applicant, nothing has been brought on record to connect him to the present crime. Based on the futile allegations, continuation of prosecution against the applicant would not be proper.

13. The Hon'ble Apex Court, in various decisions, has held that *"the ultimate object of justice is to find out the truth, punish the guilty, and protect the innocent. To find out the truth is a herculean task. The courts have to be extremely careful and cautious in dealing with the complaint and must consider the realities. The allegations in the complaint are required to be scrutinised with great care and circumspection"*. In the case in hand, no material is produced on record to indicate that the applicant was involved in the present crime of selling the said contraband articles in Maharashtra. As undisputedly, the contraband was seized within the territorial jurisdiction of Maharashtra from accused Nos. 1 and 2 and not from the possession of the applicant.

14. In view of the aforesaid discussion, we find that continuation of the proceedings against the applicant would result in abuse of process of the Court and would not serve the ends of justice. Therefore, in exercising powers under Section 482 of the Criminal Procedure Code/528 of the Bharatiya Nagarik Nyay Sanhita, we deem it appropriate to quash and set aside the FIR to the extent of the applicant.

15. In the wake of the above, The application is allowed. The FIR registered vide Crime No. 24/2024 with Khandala Police Station, District Yavatmal, for offences punishable under Sections 26(2), 27(3), and 30(2)(a) of the Food Safety and Standards Act, 2006, and Sections 188, 328, and 273 of the Indian Penal Code is hereby quashed and set aside.

The application is disposed of in the above terms.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)