



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 695 OF 2025

Sachin S/o Bharat Thalkar,
Age: 31 years, Occup: Agril,
R/o: Kesapuri Camp,
Tq. Majalgaon, District. Beed.

... Applicant

Versus

1. The State of Maharashtra
Through: The Police Inspector,
Dindrud Police Station,
Tq. Majalgaon, District: Beed.
2. Atishkumar s/o Shankarrao Deshmukh,
Age: 43 years, Occup: Police Constable,
B.No.1640, S.D.P.O. Majalgaon,
R/o: Sub-Divisional Office Police Majalgaon,
Tq. Majalgaon, District. Beed.

... Respondents

...

Mr. Sharad S. Solanke, Advocate for Applicant.

Smt. P. R. Bharaswadkar, APP for Respondents.

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CORAM : **SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 01st August, 2025.

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

1 Heard the learned advocates for the respective parties.

2 This application has been filed for quashing of the proceedings bearing Regular Criminal Case No.163 of 2023, pending in the Court of learned Judicial Magistrate First Class, Majalgaon, District Beed, arising out of FIR bearing Crime No.15 of 2023, dated 23rd January, 2023, registered with Dindrud Police Station, Taluka Majalgaon, District Beed, for the offences punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code, 1860 (for short, “the IPC”).

3 The informant averred that he is posted at the Office of the Sub-Divisional Police Officer, Majalgaon, District Beed as Police Naik. On 23rd January, 2023 at about 00.30 hours, while he was present alongwith other staff at his office, the Assistant Superintendent of Police, Sub-Division Majalgaon, District Beed, informed him telephonically that he got a secrete information that an unknown person had stored a stock of *Gutkha* in the tin-shed situated in the agricultural land of Pandit Gangadhar Thaware at Mouje Gogara, and that the said *Gutkha* was being sold illegally. The Assistant Superintendent of Police directed the informant to proceed to that spot alongwith the police staff and also to take with him A.P.I Mr. Pawar of Police Station Dindrud, and to effect a raid and take legal action. Accordingly, the informant and others proceeded towards Gogara. On

reaching there, two *Panch* witnesses were called, that secrete information was disclosed to them, and thereafter, the informant alongwith the said *Panch* witnesses and police staff proceeded to the spot. At about 01.15 hours, a raid was conducted at the tin-shed situated in the agricultural land of Pandit Gangadhar Thaware at village Gogara. At that time, one person was found possessing *Gutkha* and selling the same illegally. On noticing the police and *Panch* witnesses, the said person fled away from that spot. The *Gutkha* found at the spot was seized under *Panchanama* in the presence of two *Panch* witnesses. Fifteen gunny bags of Babaji Pan Masala *Gutkha* worth Rs.2,98,350/- and seven gunny bags of Royal 220 Tobacco worth Rs.92,820/- were seized. The price of total seized *Gutkha* was of Rs.3,91,170/-. Accordingly, the report was lodged against the applicant.

4 The learned counsel for the applicant submitted that the applicant is falsely implicated in the crime. He submitted that during the course of investigation, the police implicated the present applicant in the said crime. There is no material against the applicant for establishing the alleged offence. He lastly prayed to allow the application.

5 The learned APP for respondent / State strongly opposed

the application. He submitted that the applicant is involved in a serious crime. He has committed an anti-social crime. He further submitted that the *Gutkha* seized in the present case is of huge quantity of Rs.3,91,170/- and the material on record *prima-facie* shows that the crime is grave in nature and against the public health at large. He lastly prayed to reject the application.

6 It would be relevant to rely upon the case of ***Anand Ramdhani Chaurasia and another Vs. State of Maharashtra and others, 2019 (4) Bom CR(Cri) 520***, in which it is held that mere possession and storage cannot fall within the purview of “DANGER” as contemplated by Section 328 and Section 188 of the IPC to get it attracted.

7 We have perused the charge-sheet, particularly the report and the statements of witnesses. The CA report is not produced on record to establish that the seized material was *Gutkha*. To invoke Section 188 of the IPC, the necessary sanction has not been taken and not placed on record. The tin-shed from where the alleged *Gutkha* was being stored illegally is not belonging to this applicant. The role of this applicant is not pointed out as to what way he is connected with the crime. As per Section 272 of the IPC, adulteration of food or drink must be established. But it is not established from

entire charge-sheet. As per Section 273 of the IPC, sale of noxious food or drink must be established. But it is not established from the charge-sheet. As per Section 328 of the IPC, causing hurt by means of poison with intent to commit offence is not established from the entire charge-sheet. The essential ingredients of Sections 188, 272, 273 and 328 of the IPC are not established against the applicant as held in the case of **Anand Ramdhani Chaurasia and another** (supra).

8 Considering all facts of the case and the above reasons, if the applicant is compelled to face the trial, it would certainly be an abuse of the process of the Court. We are therefore, inclined to allow the application by exercising our inherent powers under Section 482 of the Cr.P.C. in the interest of justice to prevent the abuse of the process of the Court. The application, therefore, deserves to be allowed. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The proceedings bearing Regular Criminal Case No.163 of 2023, pending in the Court of learned Judicial Magistrate First Class, Majalgaon, District Beed, arising out of FIR bearing Crime No.15 of 2023, dated 23rd January, 2023, registered with Dindrud

Police Station, Taluka Majalgaon, District Beed, for the offences punishable under Sections 188, 272, 273 and 328 of the Indian Penal Code, stands quashed as against the present applicant.

nga [SANJAY A. DESHMUKH, J.] [SMT. VIBHA KANKANWADI, J.]