



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2986 OF 2023

Omprakash s/o Digambar Waghmare
Age: 43 years, Occu.: Business,
R/o. Om cafe infront of Adarsh College,
Hingoli – 431513

.. Applicant

Versus

The State of Maharashtra
Through Investigation Officer,
Hingoli City Police Station,
Taluka and District Hingoli.

.. Respondent

...

Mr. D. K. Manwatkar, Advocate h/f Mr. S. S. Randive, Advocate for applicant.
Mr. G. A. Kulkarni, APP for the respondent/State.

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

DATE : 03 JANUARY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed under Section 482 of the Code of Criminal Procedure for initially quashing the FIR vide Crime No.554 of 2023 dated 21.06.2023 registered with Hingoli City Police Station, Taluka and District Hingoli and later on for quashing the proceedings bearing S.C.C. No.1411 of 2023, pending before the second Judicial Magistrate First Class, Hingoli for the offences punishable under Sections 4 and 5 of

Maharashtra Prevention of Gambling Act.

2. Heard learned Advocate Mr. D. K. Manwatkar holding for learned Advocate Mr. S. S. Randive for the applicant and learned APP Mr. G. A. Kulkarni for respondent/State. In order to cut short it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR would show that the informant, who is the Police Sub Inspector, lodged FIR in his official capacity, received secret information on 21.06.2023 that gambling is going on in the house of present applicant wherein it is stated that there is trust office by name Dosti Mitra Mandal Charitable Trust. Information was given to District Superintendent of Police regarding the same and after getting warrant from Deputy Superintendent of Police, raid was conducted in presence of two panchas. When police went to the place, they found that on the first floor of two storied house of the applicant, in two rooms people were engaged in gaming activity on money. The gambling activity called '*Zanna Manna*' was being played. The police party made inquiry regarding the trust documents, however, the original documents were not produced. Thereafter, search of the

person present there was taken and it appears that in all 11 persons were found possessing money and the gaming articles were also found. Present applicant was present at the spot and amount of Rs.1100/- was found from his person. Cash of Rs.52,850/- was found from the place with nine mobiles and six motorcycles as well as the gaming material.

4. Now, learned Advocate appearing for the applicant wants to rely on the memorandum of association of Dosti Mitra Mandal stating that the said club was formed for various activities including indoor games and what the people were found playing at the spot were the indoor games and not the gambling activity, however, it is to be noted that the document, which has been produced gives the trust address of Milind Nagar, Ulhas Nagar, District Thane. Even if for the sake of arguments, we take note of a letter whereby the President of Dosti Mitra Mandal had allowed the applicant to run a branch of the said Mitra Mandal in the house of applicant, yet it is to be noted that in the said letter itself it was stated that the President of the branch i.e. the present applicant should take care that the property is not used for gambling activity. Whether there can be branches of such club that too without permission from the local police and other

authorities is a question. Whether by such activity, go by can be given to the legal requirement of obtaining license.

5. Now, the investigation is over, in which statements of eye witnesses are recorded and the charge-sheet is filed. Of course, the witnesses are mainly the police witnesses, but their testimony at the time of trial cannot be brushed aside only on the ground that they are the police witnesses. The raid has been conducted in presence of panchas and, therefore, when there is *prima facie* evidence, this is not a fit case where inherent powers can be exercised for quashing the FIR and the proceedings. Application therefore stands rejected.

[ROHIT W. JOSHI]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm