



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

CRIMINAL APPLICATION (APL) No.1382 OF 2025

Vijaykumar Abasaheb Juare,
Aged about 55,
Occupation Service,
R/o. Burdi Armori,
Tah. Armori, Distt. Gadchiroli. : APPLICANT

...VERSUS...

The State of Maharashtra,
Through Police Station Officer,
Police Station Armori,
Tah. Armori, Distt. Gadchiroli. : NON-APPLICANTS

=====

Mr. Mr. Parth Sagdeo, Advocate for Applicant.
Mr. M.J. Khan, Additional Public Prosecutor for Non-applicant.

=====

CORAM : URMILA JOSHI-PHALKE AND
NANDESH S. DESHPANDE, JJ.
RESERVED ON : 16th DECEMBER, 2025.
PRONOUNCED ON : 14th JANUARY, 2026.

JUDGMENT : (Per : Nandesh S. Deshpande, J.)

1. Heard. Admit. Heard finally by consent of learned counsel appearing for the parties.
2. The applicant has invoked the inherent jurisdiction of this Court by filing the present application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashing of

Final Report No.28 of 2021 dated 28.07.2021, arising out of First Information Report, registered as Crime No.0155/2021, dated 18.05.2021, lodged with Police Station Armori, District Gadchiroli, for the offences punishable under Sections 188, 272, 273 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”).

3. In accordance with the First Information Report, the Police Department received a secret tip that “scented tobacco” was being illegally stored in a house taken on rent by the present applicant, namely, Vinaykumar Juare, and that the said prohibited substance was being sold from a shop known as ‘Sadguru Sweets Mart’ situated at Old Bus Stop Square, Armori. Accordingly a raid was conducted and thus prohibited items amounting to Rs.1,74,300/- were seized.

4. After completion of investigation the respondent /Police Station Armori filed charge-sheet/Final Report in the matter. Aggrieved by filing of the First Information Report in question and the subsequent charge-sheet/Final Report, the applicant filed the present application challenging the averments made therein.

5. We have heard Mr.Parth Sagdeo, learned counsel for

the applicant and Mr. M. J. Khan, learned Additional Public Prosecutor for the respondent/State.

6. The Learned Counsel for the applicant has opposed the averments made in the First Information Report. He states that offence under section 188 of the Indian Penal Code, 1860 could not have been registered against the present applicant as a bare perusal of the Section 195 of the Criminal Procedure Code, 1963 (hereinafter referred to as "Cr. P. C.") would reveal that there is a specific bar on taking cognizance of matters except on a complaint made in writing by the public servant concerned or of some other public servant to whom he is administratively subordinate. But admittedly no such complaint of which cognizance could be taken under section 190(1)(a) of the Cr. P. C. has been lodged, therefore Section 188 of the IPC could not have been invoked.

7. He further states that as far as Section 272 and 273 of the IPC are concerned, it is stated by the learned counsel for the applicant that the non-applicant No.1 has no authority or jurisdiction to investigate a case as such offences falls under the ambit of the Food Safety and Standards Act, 2006, which is a special statute and thus the provisions thereof would have an overriding effect over the food related laws, including Sections 272

and 273 of the Indian Penal Code. Accordingly, the said sections deserves to be quashed.

8. Lastly, It is stated that since the sections invoked are barred by specific provisions and special statutes, the present application deserves to be allowed and the impugned First Information Report along with the consequent chargesheet is liable to be quashed and set aside.

9. In support of his submissions, learned counsel for the applicant placed reliance on an earlier order of this Court dated 17.09.2025, whereby the First Information Report and the consequent charge-sheet lodged against the wife of the present applicant were quashed and set aside. Reliance was also placed on the judgment of the Hon'ble Supreme Court in the case of **State of Haryana and others Vs. Ch. Bhajan Lal and others**, reported in **AIR 1992 SC 604**.

10. Per contra, The Learned Additional Public Prosecutor, has opposed the submissions advanced by the Learned Counsel for the applicant. It is submitted that during the course of investigation, the license was also collected from the Food Safety and Standards Authority of India which is registered in the name of the wife of the present applicant. In accordance with the said

license, the applicant is permitted to store only daily products and prepared food substances but the storage of illegal scented tobacco is completely prohibited by a notification issued by the State of Maharashtra.

11. It is also submitted that as far as the role of the present applicant is concerned, he was not present while the officials and the complainant visited the premises and conducted raid. However, despite the licence being issued in the name of the applicant's wife, it is alleged that the applicant was running the entire business and, under the guise thereof, stored a large quantity of scented tobacco and allied prohibited products.

12. Lastly, it is submitted that in view of the aforementioned facts, there is a prima-facie involvement of the present applicant in commission of offence and the material collected during the course of investigation is enough to reject the present application.

13. In the backdrop of these arguments and the case laws, we have perused the material on record. Section 188 speaks about disobedience to order duly promulgated by public servant; Section 272 speaks about adulteration of food/drink intended for sale, while Section 273 speaks about sale of noxious food/drink.

14. As far as offence under Section 188 of the IPC is concerned, Section 195 of the Criminal Procedure Code restrains the Court from taking cognizance of any offence punishable under that Section except on a complaint in writing by the public servant concerned or of some other public servant to whom he is administratively subordinate. Admittedly, the complaint in the present case is made by Chetansingh Babansingh Chavhan, Assistant Sub-Inspector, who cannot be said to be the subordinate to the concerned Public servant i.e. the Collector in the present case. Thus, the statutory requirement under Section 195 of the Cr.P.C. is not satisfied. We are, therefore, of the considered opinion that offence under Section 188 is not made out.

15. As far as Sections 272 and 273 of the Indian Penal Code, 1860 are concerned, the specific sections are overridden by section 89 of the Food Safety and Standards Authority Act, 2006. a reference can be drawn from the judgment of the Hon'ble Supreme Court in the case of **Ram Nath Vs. State of Uttar Pradesh and Others**, reported in (2024) 3 SCC 50, wherein it is held as under :

“27.The title of the Section indeed indicates that the intention is to give an overriding effect to FSSA over all “food-related laws”. However, in the main section, there is no such restriction confined to “food-related laws”, and it is provided that provisions of FSSA shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. So, the section indicates that an overriding effect is given to the provisions of FSSA over any other law.”

16. In view thereof, the provisions of Sections 272 and 273 of the Indian Penal Code stand eclipsed and cannot be invoked in respect of matters governed by the special statute.

17. In the aforesaid circumstances, we are of the considered view that continuation of the criminal proceedings against the applicant would amount to an abuse of the process of law. Accordingly, the impugned First Information Report and the consequent Final Report/charge-sheet deserve to be quashed and set aside.

ORDER

(i) The application is allowed.

(ii) Final Report No. 28/2021, dated 28.07.2021, filed before Civil Judge, Junior Division and Judicial Magistrate, First Class, Armori arising out of First Information Report No.0155/2021 registered at Police Station Armori, for commission

of offences punishable under Sections 188, 272 and 273 read with section 34 of the IPC is quashed and set aside to the extent of the present applicant, namely, Vinaykumar Juare.

(iii) The application is disposed off in the above mentioned terms.

(Nandesh S. Deshpande, J.)

(Urmila Joshi-Phalke, J.)