

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

**Criminal Application No.1076 of 2010**

*(Ajay Devidas Sadar and others vs. The State of Maharashtra)*

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*Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.*

*Court's or Judge's Orders.*

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*Mr. A.S. Mardikar, Counsel for the Applicants.*

*Mr. C.N. Adgokar, Counsel for the Non-Applicant/State.*

**CORAM : PRASANNA B. VARALE, J.**

**DATE : MARCH 30, 2011.**

Heard Mr. A.S. Mardikar, learned Counsel for the applicants and Mr. C.N. Adgokar, learned Additional Public Prosecutor for the non-applicant/State.

By the present application, the applicants are before this Court for seeking quashment of the proceedings in Summary Criminal Case No.141/2010, pending before the learned 5<sup>th</sup> Judicial Magistrate First Class, Chandrapur.

It is the case of the applicants that they are the members of one social club viz. 'Dreamland Social Club'. It is submitted by the learned Counsel for the applicants that the said club is having membership of nearly 100 members and it provides recreational facilities to its members and arranges social gatherings for the members. It is submitted that the members play the games such as Chess, Carom, Bridge, Rummy etc. in the club and the entry of the club is restricted for its members only.

It is further submitted that the police authority unnecessarily harasses the members of the club by implicating the members in the false cases under the Bombay Prevention of Gambling Act and as such the members of the club had to approach this Court by filing Criminal Writ Petition No.324/1998. This Court in the judgment dated 28/01/1999 directed that the members of the club should not be harassed and no interference be caused in the normal and lawful activities of the club by the police authority. It is submitted by the learned Counsel for the applicants that in the year 2006, a false case was registered against the members of the club including its Secretary. The learned Chief Judicial Magistrate, Chandrapur by judgment, dated 30/05/2008, acquitted the accused persons. It is further submitted that the police authority again on 07/01/2010 at 7:30 in the evening, entered in the club and a false case was registered against 12 persons naming them as accused for committing the offence under the Bombay Prevention of Gambling Act. The learned Counsel for the applicants vehemently submits that the police authority with the help of stock panch-witnesses are filing false cases against the applicants. These false cases are nothing but harassment to the members of the club. It is further submitted that though no illegal activities are conducted in the club, the club members are shown as accused and the amount with the club members is shown as the amount of gambling. It is,

therefore, submitted that as the authority has implicated the applicants in a false case, the initiation of the case against the applicants amounts to abuse of process of law and as such this Court may by exercising the powers under Section 482 of the Code of Criminal Procedure allow the present application to prevent such abuse process.

Per contra, Mr. Adgokar, learned A.P.P. for the non-applicant, vehemently opposes the application.

I have gone through the documents placed on record. The learned Counsel for the applicants has placed heavy reliance on the judgment of this Court in Criminal Writ Petition No.324/1998 and submitted that in spite of directions of this Court, the police authority are registering the cases against the applicants, which is in clear cut contravention of the directions of this Court. The perusal of the judgment and order passed by this Court in Criminal Writ Petition No.324/1998 shows that this Court has not granted blanket prohibition to the police authority for initiating action against the members of the club. The order passed by this Court shows that the petition was allowed directing that the police should not interfere with the normal and lawful activities of petitioner club. This Court further observed that the order will not come in the way of the police taking action against the club or its members if any gambling prohibited by law or any other unlawful activity is done in the premises of

the club which is prohibited under the provisions of the Bombay Police Act or the Bombay Prevention of Gambling Act or any other law for the time being in force, and in such a case, the police can take action according to law.

The perusal of the F.I.R. shows that on 07/01/2010 the police authority when entered in the premises of the said club found that the accused persons were indulged in gambling activities. The spot-panchnama which is placed on record at Annexure P-7 shows that on asking the list of registered members, the membership register was not produced for the perusal of the raiding party. The spot panchnama further shows that the licence holder is one Vijay Devidas Sadar, who was not available on the spot. The perusal of the reply filed by the State shows that on the information sought for in respect of registration with the Assistant Registrar, it was revealed that there was no registration for running the recreation club with the Assistant Registrar, Chandrapur. Therefore, though it is submitted in the application that the applicants are the members of a registered club and a counter submission is made by the State that there is no such registration granted by the Assistant Registrar, Chandrapur, whether the club is registered or not, whether the accused are members of the club, whether there was proper maintenance of the record and registration of members, whether the accused were indulged in gambling activities or

whether the accused were playing the recreational games, all these factors will have to be considered on the basis of the evidence tendered before the Court. Though there cannot be any dispute on the proposition that this Court in exercise of powers under Section 482 of the Code of Criminal Procedure can quash the proceedings, it is the settled position of law that the powers under Section 482 of the Code of Criminal Procedure are to be exercised sparingly. It is also the settled position of law that on a bare perusal of F.I.R., if no material to attract the offence is revealed, then in such a case this Court in exercise of powers under Section 482 can quash the F.I.R. or the proceedings initiated on the basis of the F.I.R.

On considering the material placed on record and in view of the reply of the State, in my opinion, the application is devoid of merits and deserves to be rejected. The same is accordingly rejected.

**JUDGE**

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