d] The bail bond of the appellant stands cancelled.

e] Fine amount as per the impugned judgment and order, if deposited by the appellant be refunded to him.

f] Order regarding disposal of the Muddemal property passed by the trial Court is maintained.

g] Record and proceeding in Special Case No.26/2003 be sent to the trial Court forthwith.

Result:- Appeal allowed.

ABC 2019 (I) 212 BOM
ACQUITTAL & BAIL CASES

HIGH COURT OF BOMBAY

(Ravi K. Deshpande & V. G. Joshi, JJ.)
Criminal Appeal No. 280/2016
Decided on 2 November, 2018
Nagpur Bench

MANGAL @ MANGESH HUSEN MESHRAM - Appellant(s).

Versus

STATE OF MAHARASHTRA - Respondent(s).

Law Covered:- ***(A) Indian Penal Code, 1860 — Section 323 & 376 — Assault & repeated Rape — Sole testimony of victim — None of the circumstance corroborates her version—Medical evidence — totally against the prosecution case— Delay in FIR — Non examination of relevant witness — Chemical Analyser's Report does not support the prosecution case — Held, the evidence of victim is not of such quality so as to place implicit faith to base conviction— Acquittal. (Para 17)***

(B) Indian Evidence Act, 1872 — Section 3 — Relevant fact — Repeated rape— Conduct of witness —repeated rape means that the alleged occurrence took considerable time as there was gap between two occurrences — victim must have raised alarm or tried to run away, but nothing of that kind happened — doubtful — Indian Penal Code, 1860 — Section 376. (Para 12)

(C) Criminal Jurisprudence — Rape — offence of — Establishing of — Presence of injuries on the person of the accused — relevance of — Held, though injuries are not must for establishing the

offence of rape, however the medical evidence mostly provides the corroborative link. (Para 13)

(D) Indian Penal Code, 1860 — Section 376 — Rape — Sign of struggle — only injury i.e. fracture at the left hand of victim — Held, that cannot be treated as sign of struggle since there may be variety of possibility to have such specific injury only at hand. (Para 13)

(E) Indian Evidence Act, 1872 — Section 3 — Fracture injury — non-production of X-ray or report — fatal to prosecution. (Para 13)

(F) Indian Penal Code, 1860 — Section 376 — Rape — Medical report no secretion of semen — no injury on the private part— fatal to prosecution. (Para 14)

(G) Indian Penal Code, 1860 — Section 376 — Rape — Medical officer — Evidence of —total absence of injuries on private part of victim— Admission by Medical Officer — can not be conclusively said that whether sexual intercourse had taken place. (Para 14)

(H) Indian Penal Code, 1860 — Section 376 — Rape of married lady of advance age— Repeated sexual assault — absence of injuries on private part —incident took place on rough surface— Held, there must have marks of struggle on her person— absence is fatal to prosecution case. (Para 14)

(I) Indian Penal Code, 1860 — Section 323 & 376 — Assault & Rape — Chemical Analyser's report — assault by wooden stick — no blood stains on the clothes of accused as well as on wooden stick — Held, the Chemical Analyser's report nowhere assists to connect the accused with the crime. (Para 14)

(J) Indian Penal Code, 1860 — Section 376 — Rape — Absence of semen on the clothes of victim or the accused — setback to the prosecution to establish forcible sexual violence. (Para 14)

(K) Indian Evidence Act, 1872 — Section 3 — Relevant fact — Conduct of witness — He had not enquired with anybody about the victim — Held, it is difficult to understand as to how he came to know about the exact isolated place where the victim was lying in injured condition — version of victim is suspicious. (Para 15)

(L) Indian Evidence Act, 1872 — Section 3 — He had not enquired with anybody about the victim — Held, If he went to the place due to cry of victim then naturally nearby residents must have noticed the cry — The version of witness is not free from doubt. (Para 15)

(M) Indian Penal Code, 1860 — Section 376 — Rape — Conduct of victim & witness — After the occurrence, they returned to the house, took dinner and slept — unnatural — fatal to prosecution. (Para 15)

(N) Code of Criminal Procedure, 1973 — Section 154 — FIR — Delay in — Back ground of relative of the victim — was selling liquor & police cases were registered against him — Held, it was quite easy for him to take his wife to the Police Station at earlier point of time — Fatal to prosecution. (Para 15)

(O) Indian Penal Code, 1860 — Section 376 — Rape — Sole testimony of victim — If the prosecution solely rests on the testimony of victim — her evidence must be credible and trustworthy. (Para 17)

(P) Code of Criminal Procedure, 1973 — Section 154 — FIR — Indian Evidence Act, 1872 — Section 3 — Delay in FIR — evolves a possibility of concoction. (Para 17)

(Q) Indian Evidence Act, 1872 — Section 3 — Repeated forcible sexual assault on rough surface & dragging victim on hard land— Non finding of marks of struggle creates enternable doubts about her entire version—(Para 17)

(R) Indian Evidence Act, 1872 — Section 3 — Shouting by the victim — none of the neighbouring witnesses were examined to corroborate her version— (Para 17)

Facts:- *The factual matrix of the case is that the victim lady was labourer who went to nearby place for answering nature's call. At that time, accused arrived, pressed her mouth and by force, dragged her to nearby place. The victim raised alarm, on which the accused struck at her left shoulder with wooden stick. The accused partially undressed her and had forcefully sexual intercourse with her. After few minutes, the accused repeated the act of sexual intercourse. While leaving the place, the accused threatened to the victim that she should not disclose the incident to any one. The accused was convicted u/s 323 & 376, IPC by the trial Court, however, honourable High Court reversed the conviction.*

Law of relief:- ***In case of fracture injury non-production of X-ray or report is fatal to prosecution.***

Held:- The prosecutrix was 57 years of age. As per her own case, the accused dragged her upto nearby Nala and caused her to fall on the ground with force. When she raised alarm, she was subjected to stick blow. It has come in her evidence that the place was surrounded by some houses, as it also emerges from the evidence of

Investigating Officer. Pertinent to note that though immediately on the following day, the panchanama of the seen of offence (Exhibit-52) was drawn, no scratches or any mark of violence was noted on the spot. It is matter of appreciation that the incident has not occurred in the house where there could be hardly any marks or scratches on the floor. However, as per the prosecution case, at the side of Nala on rough surface alleged act of repeated sexual intercourse by use of force occurred. In the circumstances, there must have signs at the place to demonstrate the marks of struggle. Though victim stated that she shouted for help, none of the witness of neighboring area has been examined, so as to at least corroborate her version to the extent of hearing of shouts. Notably, as per victim's own case, after initial act of sexual intercourse, after some time again accused repeated the things. It means that the alleged occurrence took considerable time as there was gap between two occurrences. In the circumstances, the victim who was quite grown up lady of 57 years of age, must have raised alarm or tried to run away, but nothing of that kind was happened. (Para-12)

Interesting to see medical examination report of prosecutrix. Though injuries are not must for establishing the offence of rape, however the medical evidence mostly provides the corroborative link. There can be no straight jacket formula to that effect. Alway it depends upon the variety of circumstances and mainly on the nature and manner of occurrence. At the cost of repetition, we may note that alleged occurrence took place near Nala i.e. on rough surface and was going on for few minutes since the allegations are of repeated act. In the circumstances, it was quite natural rather essential to find marks of struggle on the person of victim. The medical report nowhere speaks about the marks of struggle so as to strengthen the isolated statement of victim. As per medical report (Exhibit-74), there were no signs of scratches on the body or any injury over the body of victim. If there was struggle for few minutes and particularly when the victim was immediately examined by the Medical Officer on the following day, there must be at least some marks or scratches on the person of victim. However, total absence of the marks of struggle in the nature of scratches on the body, specially when the occurrence took place on rough surface creates a serious doubt about the happening. Though there was fracture injury at the left hand of victim, that can not be treated as sign of struggle since there may be variety of possibility to have such specific injury only at hand. Though the victim sustained

fracture injury, the prosecution has not endevour to produce X-ray or report. (Para-13)

Medical report further discloses that there was neither secretion of semen nor injury on the private part. Medical Officer - PW- 4 Dr. Narlwar equally stated about total absence of injuries on private part of victim. Medical Officer admits that he can not conclusively say whether sexual intercourse had taken place. True the prosecutrix was married lady of advance age, however, as the alleged incident repeated sexual assault took place on rough surface, there must have marks of struggle on her person, but that is not the case. As such the medical evidence, nowhere supports the prosecution case either about struggle or to show the sexual assault. The Medical Officer specifically admits that he is not sure about sexual assault. Contextually, we have gone through the Chemical Analyser's report (Exhibits 63 to 65). Clothes of victim as well as accused and wooden stick allegedly used in the commission of crime were sent to Chemical Analyser. The report indicates that there were no blood stains on the clothes of accused as well as on wooden stick. The Chemical Analyser's report nowhere assists to connect the accused with the crime. Pertinent to note that no semen was detected on the clothes of victim or the accused. To our mind, this is one another setback to the prosecution to establish the act of forcible sexual violence as alleged. (Para-14)

Coming to other circumstances, the prosecution has examined PW-3 Rama Mundekar with whom the victim was living at relevant time. He deposed that since victim never returned, he went for search and found her around 07.30 p.m. near Nala. Admittedly, he had not enquired with anybody about the victim. At relevant time, victim had gone to nearby hut for the purpose of plastering. It is difficult to understand as to how Rama came to know about the exact isolated place where the victim was lying in injured condition. If he went to the place due to cry of victim then naturally nearby residents must have noticed the cry. The version of Ram is not free from doubt. He admits that he used to sell liquor for which cases were registered against him. However, he denied that he has falsely implicated accused due to rival terms. Rama admits that the Police had not recorded his statement nor he disclosed the things to anybody till giving evidence. Thus, the entire version of Rama is suspicious as well as does not help to strengthen the evidence of victim. (Para-15)

Summing up the discussion, the victim's isolated testimony is not reliable. Since the prosecution solely rests on the testimony of

victim, her evidence must be credible and trustworthy. Though there are specific allegations about repeated forcible sexual assault on rough surface and dragging victim on hard land, non finding of marks of struggle creates enternable doubts about her entire version. None of the circumstance corroborates her version. The medical evidence on the point of struggle as well as sexual intercourse is totally against the prosecution case. Though the victim allegedly shouted, none of the neighbouring witnesses were examined to corroborate her version. On such background, the delay in lodgment of FIR evolves a possibility of concoction. Moreover, the Chemical Analyser's Report does not support the prosecution case from any angle as detailed above. At the cost of repetition, we may say that the learned trial Court without appreciating the factual aspect in proper perspective, has recorded the findings of guilt by quoting some legal propositions. The evidence of victim is not of such quality so as to place implicit faith to base conviction. It is cardinal principle of criminal jurisprudence that when two view emerges from facts, the benefit of doubt belongs to accused. Therefore, we hold that the prosecution failed to establish the leveled charges beyond the reasonable doubt. (Para-17)

Counsel:- ***For Appellant(s):*** *Mr. R. P. Thote, Adv.*
For Respondent(s): *Mrs. S. S. Jachak, Adv.*

JUDGMENT

VINAY JOSHI, J.: - This criminal appeal has been filed against the judgment and order of conviction dated 06.10.2015 passed by the learned Additional Sessions Judge, Wardha in Sessions Case No. 152/2013 registered at Pulgaon Police Station, whereby, the learned Additional Sessions Judge convicted the appellant - accused namely Mangal @ Mangesh Husen Meshram for the offence punishable under Section 376 of the Indian Penal Code and sentenced him to suffer imprisonment for life and to pay fine of Rs. 1000/- with stipulation of default. The appellant was also convicted for commission of offence punishable under Section 323 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs. 1,000/- with stipulation of default. Both the sentences are directed to run concurrently. The learned Additional Sessions Judge however, acquitted the appellant - accused for the offence punishable under Sections 307 and 506 of the Indian Penal Code. The benefit of set off in

terms of Section 428 of the Code of Criminal Procedure was accorded to appellant - accused since he was in jail from 13.03.2013 till conclusion of trial.

2. The factual matrix of the case is that the victim lady was labourer, resident of village Rampur, and at relevant time, was living with one Rama Mundekar. On 12.03.2013, around 05.00 p.m., she went to her new hut for plastering and then within 30 minutes, she went to nearby place for answering nature's call. At that time, accused arrived, pressed her mouth and by force, dragged her to nearby place. The victim raised alarm, on which the accused struck at her left shoulder with wooden stick. The accused partially undressed her and had forcefully sexual intercourse with her. After few minutes, the accused repeated the act of sexual intercourse. While leaving the place, the accused threatened to the victim that she should not disclose the incident to any one. After sustaining sexual assault, victim was lying at the place itself. Around 07.00 p.m., Rama with whom victim was living, came to the place of occurrence and took her to the house. On the following day, victim went to the concerned Police Station and lodged report.

3. On receipt of report regarding commission of cognizable offence, the Police registered crime vide Crime No. 53/2013 and commenced the investigation. During the course of investigation, the Police drew panchanama of the scene of offence, seized incriminating articles at the instance of the accused and sent accused as well as victim for medical examination. On completing the formalities of investigation, Police filed final report in terms of Section 173(2) of the Code of Criminal Procedure in the Court of Jurisdictional Magistrate.

4. After receipt of final report, the learned Magistrate committed the case to the Court of Sessions for trial. Initially, the charge against accused was came to be framed for commission of offences punishable under Sections 376, 323 and 506 of the Indian Penal Code. Latter on, charge for commission of offence punishable under Section 307 of the Indian Penal Code was added. The charge was read over and explained to accused on which, he pleaded not guilty and put the prosecution to the task of establishing leveled charges with requisite standard of proof. The defence of the accused was of total denial. To substantiate the case, the prosecution endevoured into examining as many as five witnesses. The prosecution witnesses mainly consists of the evidence of victim, her

so-called husband, Medical Officer and Police personnel. The prosecution also banks upon certain documents namely First Information Report, panchanama of the scene of offence, memorandum and seizure panchanama, chemical analyser's report and medical examination report. On the basis of said oral and documentary evidence, the prosecution endevoured to bring home the guilt of accused.

5. The statement of accused was came to be recorded in terms of Section 313 of the Code of Criminal Procedure. By denying the guilt, the accused claimed to be falsely implicated in the case. Besides that, no specific defence has been raised by accused. After hearing both sides and perusing the record, the learned trial Court passed the impugned judgment and order of conviction and sentenced to the accused as detailed above. Being aggrieved and dissatisfied with the impugned judgment and order of conviction and sentence, the appellant - accused filed this appeal.

6. The point for consideration in the appeal is as to whether the prosecution has been able to bring home the charges leveled against the accused beyond all reasonable doubt or not.

7. The learned counsel for the appellant/accused argued that the evidence of victim is wholely unreliable. There is no corroborative evidence to support the victim's sole testimony as well as the medical evidence does not support the prosecution case. Moreover, there is inordinate unexplained delay in lodgment of First Information Report. With these contentions, he would submit that the prosecution failed to establish leveled charges with requisite standard of proof, hence the accused is entitled for acquittal. On the other hand, the learned Additional Public Prosecutor for respondent/State submitted that for establishing the offence of rape, the sole testimony of victim is sufficient. The evidence of victim is reliable, trustworthy and there is no reason for victim to falsely implicate the accused. In short, she submitted that the learned trial Court has correctly appreciated the evidence available on record and passed the impugned judgment and order of conviction which is in accordance with law. Ultimately she urged that, the sentence is liable to be upheld by dismissing the appeal.

8. Few admitted fact needs reference for the purpose of quick appreciation. The victim lady who was 57 years of age was married with a fellow from Kolhapur, prior to 15 years. Since her relationship with her husband were strained, she was living with Rama Mundekar

at the time of occurrence. It is not disputed that on the day of occurrence, the victim had gone for plastering her hut with mud. Besides that, the rest of the prosecution case is denied by the defence. We may recapitulate that the alleged incident occurred on 12.03.2013, around 05.30 p.m. whilst the First Information Report was lodged by victim on the following date i.e. on 13.03.2013, around 11.00 a.m.

9. The learned Additional Sessions Judge by relying on sole testimony of PW-2 - Victim, has convicted the accused for commission of offence of rape and causing simple hurt. While analysing the evidence on record, the learned Additional Sessions Judge, was much swayed by some legal principles by referring some precedents for which there can be no dispute. The learned Additional Sessions Judge expressed that the sole testimony of prosecutrix can be believed in context of the values prevailing in our society. It would be unusual for women to come up with false story of sexual assault. The minor contradictions are to be neglected for establishing the offennce of rape. Injury is not a must to prove the offence of rape. When there is a conflict in between oral and medical evidence ocular testimony would prevail, and shabby quality of investigation can not prevail over the truthful version of the victim. The learned Additional Sessions Judge has quoted these legal principles while recording the findings of guilt.

10. In-fact, each criminal case defers from one to another. Each case has its own peculiar facts. The criminal case cannot be decided solely on the basis of settled legal principles but the applicability of the principles in context to the facts of the case plays crucial role. It reveals that the learned Additional Sessions Judge while recording the order of conviction, was much influenced by these settled principles. Needless to say that the Court has to see the factual matrix, the evidence forthcoming and then go to the principles on the basis of which, the evidence is to be appreciated.

11. Reverting to the facts, we have gone through the vital evidence which is obviously of the PW-2, victim. She stated in her evidence that she had gone for plastering her house with one lady. When she went to answer nature's call, the accused suddenly came, gagged her mouth, lifted upto Nala, made to fall on the ground with force and had forcible sexual intercourse with her. It is her evidence that initially she shouted, on which accused dealt with stick blow at her left hand. She specifically stated that after gap of few minutes, again the accused repeated the things. The prime question is whether

the victim's evidence inspires confidence. We are conscious of the fact that generally such offences are committed in secrecy. Therefor, it is unrealistic to expect eye-witness to the incident. The said very fact casts heavy duty on Court to minutely scrutinize the evidence of victim before placing reliance. Usually, there happens to be medical evidence in corroborative form to which we are coming after short-while.

12. The prosecutrix was 57 years of age. As per her own case, the accused dragged her upto nearby Nala and caused her to fall on the ground with force. When she raised alarm, she was subjected to stick blow. It has come in her evidence that the place was surrounded by some houses, as it also emerges from the evidence of Investigating Officer. Pertinent to note that though immediately on the following day, the panchanama of the seen of offence (Exhibit-52) was drawn, no scratches or any mark of violence was noted on the spot. It is matter of appreciation that the incident has not occurred in the house where there could be hardly any marks or scratches on the floor. However, as per the prosecution case, at the side of Nala on rough surface alleged act of repeated sexual intercourse by use of force occurred. In the circumstances, there must have signs at the place to demonstrate the marks of struggle. Though victim stated that she shouted for help, none of the witness of neighboring area has been examined, so as to at least corroborate her version to the extent of hearing of shouts. Notably, as per victim's own case, after initial act of sexual intercourse, after some time again accused repeated the things. It means that the alleged occurrence took considerable time as there was gap between two occurrences. In the circumstances, the victim who was quite grown up lady of 57 years of age, must have raised alarm or tried to run away, but nothing of that kind was happened.

13. Interesting to see medical examination report of prosecutrix. Though injuries are not must for establishing the offence of rape, however the medical evidence mostly provides the corroborative link. There can be no straight jacket formula to that effect. Alway it depends upon the variety of circumstances and mainly on the nature and manner of occurrence. At the cost of repetition, we may note that alleged occurrence took place near Nala i.e. on rough surface and was going on for few minutes since the allegations are of repeated act. In the circumstances, it was quite natural rather essential to find marks of struggle on the person of victim. The medical report nowhere speaks about the marks of

struggle so as to strengthen the isolated statement of victim. As per medical report (Exhibit-74), there were no signs of scratches on the body or any injury over the body of victim. If there was struggle for few minutes and particularly when the victim was immediately examined by the Medical Officer on the following day, there must be at least some marks or scratches on the person of victim. However, total absence of the marks of struggle in the nature of scratches on the body, specially when the occurrence took place on rough surface creates a serious doubt about the happening. Though there was fracture injury at the left hand of victim, that can not be treated as sign of struggle since there may be variety of possibility to have such specific injury only at hand. Though the victim sustained fracture injury, the prosecution has not endevour to produce X-ray or report.

14. Medical report further discloses that there was neither secretion of semen nor injury on the private part. Medical Officer - PW- 4 Dr. Narlwar equally stated about total absence of injuries on private part of victim. Medical Officer admits that he can not conclusively say whether sexual intercourse had taken place. True the prosecutrix was married lady of advance age, however, as the alleged incident repeated sexual assault took place on rough surface, there must have marks of struggle on her person, but that is not the case. As such the medical evidence, nowhere supports the prosecution case either about struggle or to show the sexual assault. The Medical Officer specifically admits that he is not sure about sexual assault. Contextually, we have gone through the Chemical Analyser's report (Exhibits 63 to 65). Clothes of victim as well as accused and wooden stick allegedly used in the commission of crime were sent to Chemical Analyser. The report indicates that there were no blood stains on the clothes of accused as well as on wooden stick. The Chemical Analyser's report nowhere assists to connect the accused with the crime. Pertinent to note that no semen was detected on the clothes of victim or the accused. To our mind, this is one another setback to the prosecution to establish the act of forcible sexual violence as alleged.

15. Coming to other circumstances, the prosecution has examined PW-3 Rama Mundekar with whom the victim was living at relevant time. He deposed that since victim never returned, he went for search and found her around 07.30 p.m. near Nala. Admittedly, he had not enquired with anybody about the victim. At relevant time, victim had gone to nearby hut for the purpose of plastering. It is difficult to understand as to how Rama came to know about the exact

isolated place where the victim was lying in injured condition. If he went to the place due to cry of victim then naturally nearby residents must have noticed the cry. The version of Ram is not free from doubt. He admits that he used to sell liquor for which cases were registered against him. However, he denied that he has falsely implicated accused due to rival terms. Rama admits that the Police had not recorded his statement nor he disclosed the things to anybody till giving evidence. Thus, the entire version of Rama is suspicious as well as does not help to strengthen the evidence of victim.

16. Then, it comes to the aspect of lodgment of FIR. The defence has criticized the prosecution case by submitting that there was inordinate delay in lodgment of FIR. The alleged incident took place in between 06.00 to 07.00 p.m. on 12.03.2013 whilst on the following day, around 11.00 a.m., the report was lodged. It has come in the evidence of Rama that on the day of occurrence, they returned to the house, took dinner and slept. It is not a case that they searched for conveyance to reach the Police Station but they did not get. One should not forget that Rama was selling liquor and police cases were registered against him. Considering the said aspect, it was quite easy for Rama to take his wife to the Police Station at earlier point of time, therefore, the explanation given by prosecution in the background of factual aspect does not appear to be probable one.

17. Summing up the discussion, the victim's isolated testimony is not reliable. Since the prosecution solely rests on the testimony of victim, her evidence must be credible and trustworthy. Though there are specific allegations about repeated forcible sexual assault on rough surface and dragging victim on hard land, non finding of marks of struggle creates enternable doubts about her entire version. None of the circumstance corroborates her version. The medical evidence on the point of struggle as well as sexual intercourse is totally against the prosecution case. Though the victim allegedly shouted, none of the neighbouring witnesses were examined to corroborate her version. On such background, the delay in lodgment of FIR evolves a possibility of concoction. Moreover, the Chemical Analyser's Report does not support the prosecution case from any angle as detailed above. At the cost of repetition, we may say that the learned trial Court without appreciating the factual aspect in proper perspective, has recorded the findings of guilt by quoting some legal propositions. The evidence of victim is not of such quality so as to place implicit faith to base conviction. It is cardinal principle of

criminal jurisprudence that when two view emerges from facts, the benefit of doubt belongs to accused. Therefore, we hold that the prosecution failed to establish the leveled charges beyond the reasonable doubt.

18. In the result, the judgment and order of trial Court does not sustain in the eyes of law, consequently it requires reversal by allowing appeal. Accordingly, we allow the appeal, set aside the judgment and order of conviction dated 06/10/2015 passed by the Additional Sessions Judge, Wardha, in Sessions Case No.152 of 2013. The appellant/accused, viz. Mangal @ Mangesh Husen Meshram stands acquitted of the offence punishable under Sections 376, 323 of the Indian Penal Code and he be released forthwith from Jail, if not required in any other offence. The amount of fine, if deposited, be refunded to the accused, seized muddemal property being worthless be destroyed on expiry of period of appeal and R. & P. be sent back to the Trial Court.

The fee payable to the appointed Counsel is quantified at Rs. 5000/-

Result:- Appeal allowed.

ABC 2019 (I) 224 BOM
ACQUITTAL & BAIL CASES

HIGH COURT OF BOMBAY

(Mridula Bhatkar, J.)
Criminal Writ Petition No. 2981 of 2016
Decided on 19 November, 2018

ANJALI RAJANISH NIRMAL ***- Petitioner(s).***

Versus

STATE OF MAHARASHTRA ***- Respondent(s).***

Law Covered:- ***(A) Code of Criminal Procedure, 1973 — Section 239 — Discharge — Bombay Prohibition Act, 1942 — Sections 65(E), 81, 82 & 83 — Bombay Police Act, 1951 — Sections 33 (w) & 131(5) — Raid in the Hotel premises — Breach of condition — Application of discharge by owner of premises — Allegation of indirect participation — Held, no material to arrive at a conclusion that the petitioner/accused was responsible for breach of the conditions of the permit to run the Pub and sell liquor — Accused***