

MHND210006912022 	State of Maharashtra Through Police Station, Mukhed <u>Versus</u> Babalu Maheeb Pathan
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ORDER BELOW EXH.1

On 21.06.2022 at about 19.45 hrs. Mukhed Police conducted raid on the house of accused, in Ahilyabai Holkar Nagar, Mukhed. Police seized two bag containing prohibited tobacco and gutkha.

2] Thus, the crime of an offence punishable under sections 328, 188, 272, 273, of the Indian Penal Code, 1860 and section 59 of the Food Safety Act, 2006, is registered against the accused.

3] After recording statements of witnesses and collecting samples and final report and accused are forwarded to learned Judicial Magistrate First Class, Mukhed.

4] As, an offence punishable under section 328 of the IPC is triable by the Court of Session, the learned Magistrate committed the case to Session Court, Mukhed.

5] Perused the final report, statements of witnesses. No witness stated that accused have administered or caused to be consumed stupefying, intoxicating, unshorn drug for poison

substance to any person.

6] Accused were merely found with possession of prohibited tobacco and gutkha, reveals from the material on record.

7] Thus, an offence punishable under section 328 of the IPC is not made out from the material on record. Hence, the trial can not be conducted in the court of Session.

8] So, the case needs to be transferred to the court of learned Judicial Magistrate First Class, Mukhed for framing of charge and trial. Consequently, following order is passed :

ORDER

1. The case is transferred to the Court of Learned Judicial Magistrate First Class, Mukhed for framing of charge and trial in accordance with the law.
2. Accused are directed to appear before the Learned Magistrate on 31.08.2023.

Sd/-

Date : 28/07/2023
Place : Mukhed

(Shaukat S. Gorwade),
Additional Sessions Judge,
Link Court, Mukhed.

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment are same word to word, as per the original Judgment.

Name of the Stenographer :	C. P. Yellewad ,Steno (L.G.)
Court Name :	Additional Session Court, Link Court Mukhed.
Date of judgment :	28/07/2023
Judgment signed by the Presiding officer on :	28/07/2023
Judgment uploaded on :	31/07/2023