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Form No.XXXII
Part 'A'
(Title Page of Judgment) **Exh. 33 /A**

	<u>IN THE COURT OF SESSIONS JUDGE, KAIJ.</u> Present by : R. K. Shaikh, Addl. Sessions Judge, Kaij. <u>Session Case No. 16/2024</u>
	Crime No. :- 255/2023 Police Station :- Dharur Tal. Dharur Dist.Beed. Offences :- Punishable under section 328,272,273,188, read with 34 of The Indian Penal Code
Complainant	State of Maharashtra, Through : Police Station Officer, Police Station, Dharur, Tal. Dharur Dist. Beed. (Raju Rupchand Vanjare)
Represented by	Mr. R. P. Udar, Learned A.P.P. for the State.
Accused	Akash Kishorprasad Tiwari, Age : 23 years, Occupation – Nil R/o. Rangar Galli Dharur Tal. Dharur Dist.Beed. Jayraj Manohar Tiwari, Age : 32 years, Occupation - Nil R/o. Rangar Galli Dharur Tal. Dharur Dist.Beed.

	3. Dnyanoba @ Mauli Shriram Sakrudkar, Age : 27 years, Occupation - Nil R/o. Choramba Tal. Dharur Dist.Beed.
Represented by	Shri. V. G. Toshniwal, Learned Advocate for the accused.

Part 'B'

Date of offence	:	15.08.2023
Date of FIR	:	15.08.2023
Date of Charge-sheet	:	09.01.2024
Date of Framing of Charges	:	20.06.2025
Date of commencement of Evidence	:	30/08/2025
Date on which Judgment is reserved	:	-----
Date of Judgment	:	29.07.2026
Date of the Sentencing order, if any	:	-----

Ran k of acc use d	Name of accused	Date of Arrest	Date of Release on bail	Offences Charged with	Whether acquitted or Convicted	Senten ce impose d	Period of Detention Undergone during Trial for the purpose of Section 428 CR.P.C.
1)	Akash Kishorprasa d Tiwari,	16.08.2023	30.04.2023	U/sec. 328,272,2 73,188, read with 34 of The Indian Penal Code	Acquitted	--	--
2)	Jayraj Manohar Tiwari	07.09.2023	21.02.2024	--"--	--"--	--	--

3)	Dnyanoba @ Mauli Shriram Sakrudkar	21.09.2023	21.02.2024	--"--	--"--	--	--
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:: J U D G M E N T ::

(Delivered on 29th day of July, 2026)

[1] The accused have been prosecuted and tried for the offence punishable under Section 328,272,273,188, read with 34 of The Indian Penal Code.

[2] Brief facts of the prosecution case are :-

The informant Raju Rupchandra Vanjare HC Kaij lodged report that on 15/08/2023 while they were present at Sub Divisional Policers Office, Kaij. Their Asstt. S.P. Kumavat received confidential information that a person name Jayaraj Manoharprasad Tiwari and his associates have illegally brought and sold Gutkha product which is prohibited in the State of Maharashtra for their own benefit without a license at Rangar Galli, Dharur. However, he and other police officers along with two panch witnesses at that spot they carried raid in the teen shed near the house of Jayaraj Tiwari at Rangar Galli, Dharur at 19.30 hrs. On seeing them two persons ran away from the place and one person was caught on the spot. The police officer disclosed their identity and accused also disclosed her name Akash Kishorprasad Tiwari, R/o Rangar Galli. The police officer had asked him the names of other person who had run away. Thereafter, he disclosed the name of other persons i.e. Jayaraj Manoharprasad Tiwari, Dnyanoba @ Mauli Shriram Sakrudkar, R/o Choramba. They inspected said and found Gutkha, Pan Masala and Tobacco as described in the FIR, total

worth of Rs. 1,66,800/-. They seized the muddemal. Thereafter, the informant lodged a report to Dharur Police Station.

[3] The crime was investigated by PSI G. S. Baste, he drawn spot, seizure panchnama, recorded statement of the witnesses, arrested accused, sent Muddemal properties to Forensic science department for opinion. Mr. G. S. Baste, PSI forwarded to chargesheet against these accused for the above offences.

[4] The learned Magistrate has complied as per the provisions of Section 207 of Code of Criminal Procedure (in short Cr.P.C.) and thereafter, committed the case to the Sessions Court as per the provisions of Section 209 of Cr.P.C. The Hon'ble Sessions Court made over to this court for trial as per the provisions of Section 194 Cr.P.C.

[5] Charge framed at Exh.13. They pleaded not guilty and claimed to be tried.

[6] Statement of the both the accused under Section 313 Code of Criminal Procedure, recorded at Exh. No.29 to 31. There defence is total denial and false case lodged against them.

[7] Heard argument of the Ld. A.P.P Shri. R. P. Udar for the prosecution and Ld. Advocate Shri. V. G. Toshniwal for accused.

[8] Following points arose for adjudication and recorded findings thereon for the reasons as to follows :-

POINTS

FINDINGS

- 1) Does the prosecution prove that, on ..
15/08/2023 at about 4.00 p.m. at village
Rangar Galli, Dharur accused caused hurt
to be taken by any person any stupefying,
intoxicating or unwholesome drug or other

In the negative.

thing with intent to commit or to facilitate the commission of offence or knowing it to be likely that he will thereby cause hurt and thereby committed an offence punishable under section 328 of IPC ?

- | | | | |
|----|--|----|---------------------|
| 2) | Does the prosecution further prove that, on the aforesaid date, time and place, accused in furtherance of their common intention adulterated food i.e. Gutkha, Barati Pan Masala Gutkha, B-1 Chewing Tobacco scented Tobacco for intending to sell such above Gutkhas as food and thereby committed an offence punishable under section 272 r.w. 34 of IPC ? | .. | In the negative. |
| 3) | Does the prosecution further prove that, on aforesaid date, time and place accused in furtherance of their common intention sells food i.e. Gutkha, Barati Pan Masala Gutkha, B-1 Chewing Tobacco scented Tobacco, which has become noxious or is in a state fit for food and thereby committed an offence punishable under section 273 r.w. 34 of IPC ? | .. | In the negative. |
| 4) | Does the prosecution further prove that, on aforesaid date, time and place accused in furtherance of their common intention disobeyed the order duly promulgated by public servant lawfully empowered to promulgate such order and thereby committed an offence punishable under section 188 of IPC ? | .. | In the negative. |
| 5) | What order ? | .. | As per final order. |

:: REASONS ::

POINTS NO. 1 TO 4 :-

[9] All the points are interlinked with each other. However, for convenient and to avoid the repetition these points are taken together for discussion.

[10] The prime witness informant (PW2/Exh.23) and Vikas Ganpat Chopane (PW3/Exh.26) deposed as per the FIR. He deposed that on 15/08/2023 while he was on duty. The Asstt. Superintendent of Police, Kumavat received confidential information that Jayraj Tiwari and other associates stored prohibited Gutkha at Rangar Galli. As per the order of ASP he went there along with the other police officer and carried raid in the teen shed at 7.30 p.m. There were three persons out of two ran away and they caught one person namely Akash Kishorprasad Tiwari. The Akash has disclosed the names of other two accused i.e. Jayaraj Tiwari, Dnyanoba @ Mauli Sakudkar. They inspected the shed and found 113 packate of Gutkha in one bag, Baramati Pan masala 560 packate in two white coloured bags. 500 chewing tobacco in one white coloured bag, 169 packets in two white coloured bags and total worth of the said goods are 1,66,800/-. They have taken out sample from the said muddemal for chemical analysis and seized those muddemal in presence of two panch witnesses as per Exh. 24. He lodged FIR at Exh. 25. He affirm his signature on the said FIR. He identified to the accused Akash Tiwari.

[11] In the cross examination they did not see the PTR of the place where such goods were found. But he deposed that belongs to Jayaraj Tiwari. He can not described batch number of the said muddemal.

[12] Panch witness Kiran Choudhari (PW1/Exh.19) deposed that he is the controlar in the ST Depot, Dharur. On 16/08/2023 he was

present in the said Depot and one another panch Rajaram Waghmare also employee of their department. On 16/08/2023 both were present as panch witness at Rangar Galli, Dharur. There was a teen shed of Tiwari. Police officer carried raid over there and drawn panchnama in their presence. Thereafter, they signed on the said panchnama. He affirm the contents of the said panchnama are true and correct as well as his signature also. Accordingly, spot panchnama is prepared. In the cross examination he has admitted that he did not see the PTR and 7/12 extract of the said property and he can not described boundaries of the said tin shed.

[13] The Ld. APP argued that prosecution has proved its case by the evidence of PW2 & 3 and their testimony is not impitched during his cross examination.

[14] Ld. Advocate for the accused has argued that the prosecution has failed to prove the ingredients of section 328 of BNS as the said substance is a poisonous substance. It is not proved that these accused have possessed these articles and these articles were found in their possession. However, it is not proved that goods were recovered from the possession of these accused. So the offence are not proved against these accused.

[15] As per section 328 IPC three ingredients are necessary to prove the said offence i.e. (1) As per the prime evidence of witness No. 2 & 3 they found those goods as described in the seizure panchnama, spot panchnama from one tin shed and where they have arrested to one Akash. Though the evidence of these witness considered as it is there is no evidence about who is the owner of that tin shed. As per the admission in the cross examination of these witnesses they did not

check PTR or not collected any documentary evidence to prove that that shed was belongs to any of the accused or accused is the owner of that shed. So the primary requirements of owner of the said shed is not proved. Second part is though the accused was arrested from the said shop i.e. is not enough to draw the conclusion that he is the person who had possessed those goods for selling or others. The prosecution has failed to prove the link, connection or concern of these accused with the said shed or the goods. However, the first part of ingredients i.e. possession of these goods with any of the accused is not proved. The second ingredient is the seized goods are poison or any stupefying/intoxicating/unwholesome drug. For that report of FSL/Chemical analysis is material to proof that it is a poisonous substance and the prosecution has failed to prove these facts. The third ingredient is administration or use of the substance. The prosecution has to prove that accused administered it or cause it to be taken by any of the person or victim but this fact is also not proved by the prosecution.

[16] As above discussion possession of the said substance not proved consequently with intent to commit or to facilitate the commission of an offence does not remain. Here in the present case it is not case of prosecution that it caused hurt to any person or knowing it to be likely that he will thereby caused hurt. So that ingredients also not proved.

[17] As per the discussion ingredients of section 328, 272 & 273 of IPC not proved. It requires to prove that there was adulteration of food or drink intended for sell or sell of noxious food or drink. For that purpose the FSL report is material which is not proved by the

prosecution. Accordingly, the prime requirement as the good is adulterous or noxious not proved. Consequently, the second part of intended to sell or sell also not proved.

[18] When the above offences are not proved then the common intention does not survive.

[19] With this the offence charged against the accused not proved consequently findings of point No.1 to 4 are in the negative.

[20] The prosecution failed to proved charges leveled against both accused. I therefore pass following order -

ORDER

- 1 The **(1) Akash Kishorprasad Tiwari (2) Jayraj Manohar Tiwari (3) Dnyanoba @ Mauli Shriram Sakrudkar** are hereby acquitted of the offences punishable under section 328, 272, 273, 188 read with section 34 of the Indian Penal Code as per provision of section 235(1) of Cr. P.C.
- 2 Their bail bonds stand cancelled.
- 3 Seized muddemal one TVS company Jupitor No. MH 44 CZ 2248 (Worth Rs. 20,000/- only) already handed over to its owner it be retained to him.
- 4 As per Section 437(A) of the Code of Criminal Procedure, each accused shall furnish the bail bond with one surety each for the amount of Rs.30,000/- (Rs. Thirty Thousands only) each to appear before the higher court as and when such court issues notice in respect of any appeal or petition filed against the judgment. This bail bond shall be in force for 6 months.

(Dictated and pronounced in open Court.)

Date : 29/07/2026

(R. K. Shaikh)
Additional Sessions Judge,
Kaij.

Part 'C'
List of Prosecution/Defence/Court Witnesses
A. Prosecution

Rank	Name of Witness	Nature of Evidence
PW-1	Kiran Ganesh Choudhari	Spot Panch
PW-2	Raju Roopchand Vanjare	Complainant
PW-3	Vikas Ganpat Chopne	Witness

B. Defence Witnesses, If any :

Rank	Name of Witness	Nature of Evidence
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C. Court Witnesses, If any :

Rank	Name of Witness	Nature of Evidence
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List of Prosecution / defence / Court exhibits

A. Prosecution

Sr. No.	Exhibits Number	Description
1.	20	Spot Panchanama
2.	24	Seizure panchnama
3.	25	FIR

B. Defence :

Sr. No.	Exhibits Number	Description
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C. Court Exhibits (Admitted documents)

Sr. No.	Exhibits Number	Description
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D. Material Objects :

Sr. No.	Material Object Number	Description
1	One TVS company Jupitor No. MH 44 CZ 2248 (Worth Rs. 20,000/- only)	Seized from accused
2	Goa Gutkha, Barati Pan Masala, Chewing Tobacco, Baba Ratna Tobacco (Total worth Rs. 1,66,800/- only)	Seized from accused

Dt. 29/07/2026

Kaij

(R. K. Shaikh)

Addl. Sessions Judge,

Kaij

CERTIFICATE

I affirm that the contents of this PDF file are word to word as per original judgment/order.

Dictated on : 29/07/2026

Transcribed on : 29/07/2026

Checked & signed on : 29/07/2026

Sd/-

(K. D. Chavan)

Stenographer Grade-I