

**IN THE COURT OF METROPOLITAN MAGISTRATE  
41ST COURT, SHINDEWADI, DADAR, MUMBAI.  
(Before S. U. MAHADAR)**

Date of institution : 11/10/2018  
Date of registration : 11/10/2018  
Date of decision : 23/01/2020  
Duration : 01 Y. 03 M. 13D.

**Exh.B/01**

**CNR No. MHMM21-007879-2018**

|    |                                                              |                                                                                                                        |
|----|--------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| a) | The serial No. of the Case                                   | 4108024/SS/2018                                                                                                        |
| b) | The date of the commission of the offence.                   | 21/08/2018                                                                                                             |
| c) | The Name of the complainant, if any.                         | Mumbai Municipal Corporation-'A' Ward through Sr.L.A. Waradkar.                                                        |
| d) | Name of the accused person, and his parentage and residence. | Narsingh R. Singh.<br>Age: 51 years Occ. Business.<br>R/o: Room No.05, Sangle House, Shroff street, Colaba, Mumbai-05. |
| e) | The offence complained of or proved.                         | Under Section 347-B/471 of the Mumbai Municipal Corporation Act.                                                       |
| f) | The plea of accused and his examination, if any.             | The accused pleaded not guilty.                                                                                        |
| g) | Final Order.                                                 | The accused is acquitted.                                                                                              |
| h) | The date of such order.                                      | 23/01/2020.                                                                                                            |

-----  
Appearance: For the complainant : Ld. Sr.L.A. Waradkar.

For the accused : Ld. Adv. Devani.

-----

**: - R E A S O N S :-**

It is alleged that, the accused being occupier of Room No.05, Sangle House, Colaba, Mumbai changed user of the same from residential to commercial by running teaching class and thereby committed offence as per section 347-B punishable under section 471 of the Mumbai Municipal Corporation Act ( In short "the Act" hereinafter).

02. As per section 347-B of the Act owner or occupier of the premises cannot change authorized use of the building without permission of the commissioner. Hence, it was necessary to prove that, what was authorised use of the offence place and the accused being occupier was responsible to change the same. To prove said facts evidence of Jr. Engineer Dendhe (C.W. No. 01), Rakesh Kanojia (C.W. No. 02), Sub Engineer Bhilare (C. W. No. 03) and Building Mukadam Bhagat (C.W.No.04) is available.

03. Rajesh Kanojiya (C.W.No.02) deposed that, in the month of January 2018, he had made complaint (Exh.18) against illegal running teaching class. But, he has not explained that, how the accused was related with the offence place and running the class. Therefore, his evidence being vague, it is not accepted. In respect of service of notice Building Mukadam Bhagat (C.W. No. 04) deposed that, he had served the notice and order on the accused.

04. Engineer Dendhe (C.W. No. 01) and Sub Engineer Bhilare (C. W. No. 03) deposed that, for two times when they inspected the offence place teaching class was going on, some students were sitting on the benches and teachers were teaching. However, names of the students and teachers are not known. It is not known that, how the accused was related with the same. It is alleged that, as per assessment record the accused was tenant of the offence place. But, said record is not proved by leading necessary evidence. Therefore, it is not admissible in the evidence. Except vague oral evidence there is nothing on record to prove relation of the accused with the offence place. Hence, it is not proved that, the accused was related with the offence place and consequently responsible for changing the user.

05. Basically it was necessary to prove that, what was authorised use at the offence place. But, single document is not available to prove said fact. Therefore, when authorised use is not proved, there is no question of changing its use as alleged.

06. For the reasons mentioned above, for want of the evidence it is not proved that, the accused was occupier of the offence place, it was authorised to be used only for residential purpose, he was using the same for commercial purpose. Therefore, as it is not proved that, he committed the alleged offence he is entitled for the acquittal. Hence, I pass the following order :-

**O R D E R**

- 1) The accused is acquitted of the offence committed under section 347-B punishable under section 471 of the Mumbai Municipal Corporation Act.
- 2) His bail bonds stand cancelled. He shall furnish fresh bail as per section 437-A of the Code of Criminal Procedure.

(S. U. Mahadar)

Metropolitan Magistrate,

Date :- 23/01/2020.

41st Court, Shinddewadi, Dadar, Mumbai.

Dictated and Typed on : 23/01/2020.

Signed on : 23/01/2020.

