

MHNG030012941999



Presented on : 16.07.1999

Registered on : 16.07.1999

Decided on : 10.03.2026

Duration : Y M D
26 05 22

**IN THE COURT OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE,
NAGPUR.**

(Presided over by Anamika D. Bose)

Regular Criminal Case No. 3020032/1999**Exh.60**

Prosecution		The State of Maharashtra represented through Shri. V.A. Kose, Drugs Inspector, Nagpur Working in the office of Joint Commissioner (Nagpur Division), Food and Drug Administration (M.S.), Limbana Garage Compound, Sadar, Nagpur-1
Represented by		Smt. Anju Chincholkar, A.P.P.
		- Versus -
Accused	1.	Pravin Shashikumarsingh Gautam, Aged about 56 years, R/o.4, Giripeth, Nagpur Partner of M/s. Associated Tobacco Products, 240, Vikasnagar, Khadgaon Road, Wadi, Nagpur
	2.	Mrs. Beena Mukesh Kumaran (Absconding)
	3.	M/s. Associated Tobacco Products, 240, Vikasnagar, Khadgaon Road, Wadi, Nagpur
Represented by		Shri. A.R. Tekade, Advocate

-: J U D G M E N T :-
(Delivered on 10th day of March, 2026)

This is a complaint filed under Section 190(1)(a) of the Criminal Procedure Code for the offence in contravention of Section 18(c), 18(a)(ii), 18(a) (vi) read with Section 26-A punishable under Section 27-A(ii) and 28-B of the Drugs and Cosmetics Act, 1940 and Rules thereunder.

2. The contentions of the complainant as per his complaint are as under-

The complainant Shri. V.A. Kose, at the relevant time, was the Drug Inspector working in the office of Joint Commissioner (Nagpur Division) Food and Drugs Administration, Maharashtra. Accused Nos. 1 and 2 were the partners of accused No.3 firm, M/s. Associated Tobacco Products, located at Khadgaon Road, Wadi, Nagpur.

3. On 11.11.1997, the complainant visited the premises of M/s. Associated Tobacco Products, alongwith Drug Inspector J.R. Malani and other Drug Inspectors for inspection. On their inspection of said premises, they found stock of raw material ingredients such as tobacco, geru powder, kalimirch powder, clove powder etc. for manufacturing red tooth powder. They also found machines such as pulveriser, shifter, cap sealing machine, weighing balance and various weights.

4. The Drug Inspector J.R. Malani drew the samples of finished products i.e. New Suraj Red Toothpowder and samples of various raw material such as mirey powder, tooth powder, Suvarna geru powder, tobacco powder and prepared Red tooth powder in

loose stock which was ready for final packing under intimation in form 17 from accused No.1 as per the procedure laid down in the Drugs and Cosmetics Act. Said raw materials and stock were seized by Shri. J. R. Malani under a panchanama in form 16, the copy of which was given to accused No.1. Shri. J.R. Malani informed about the search and seizure to the concerned court and obtained safe custody vide Misc. Cr.A. No. 18/1997. The seized stock and samples were sent for analysis to the Government analyst, Mumbai and same were found not of standard quality. The report was also confirmed by Government Analyst.

5. The reports also confirmed the presence of tobacco in the seized ingredients, which is prohibited in Notification No.GSR-444(e), dated 30.04.1992, published in the Gazette of India by the Government of India whereby the manufacture and sale of cosmetics, such as toothpaste, toothpowder containing tobacco. The reports were sent to accused No.1.

6. The complainant and Shri. J.R. Malani made inquiry and found that the accused manufactured and sold New Suraj Red Tooth powder at the premises of M/s. Associated Tobacco Products. In further inquiry, they also found that said products were sold by M/s. Mamta Provisions, Gandhi Ward, Ballarpur, and M/s. Subhash Zade Kirana Stores. The Drug Inspector, Chandrapur collected copies of purchase bills from the accused, showing payment details issued to M/s. Associated Tobacco Products. The inquiry and the investigation revealed that the accused manufactured and sold "New Suraj Red Tooth Powder", containing banned item tobacco, without obtaining the requisite licence as required under the Drugs and Cosmetics Act,

1940 and so contravened the provisions of Section 18(c), 18(a)(ii), 18(a) (vi) read with Section 26-A of the Drugs and Cosmetics Act, 1940.

7. After registration of the complaint, process was issued against accused Nos. 1 and 2. for the offences under 18(c), 18(a)(ii), 18(a) (vi) read with Section 26-A punishable under Section 27-A(ii) and 28-B of the Drugs and Cosmetics Act, 1940.

8. The accused appeared before the Court and furnished bail. The complainant Shri. V. A. Kose examined himself at **Exh.21** for the purpose of evidence before charge. On the basis of said evidence, Charge is framed against accused No.1 vide **Exh.50** and the contents thereof are explained to him in vernacular to which, he pleaded not guilty and claimed to be tried vide plea **Exh.51**.

9. Despite several summons and warrants issued against accused No.2, her presence could not be secured. Therefore, proclamation under Section 82 of the Criminal Procedure Code, was issued against her. Accused No.3 is the firm, of which accused Nos. 1 and 2 were the partners.

10. After framing of charge, despite repeated summons issued to complainant Shri. Kose, his presence could not be secured by the concerned police as he has retired from his service. Thus, the prosecution could not present said witness for cross-examination by the defence and therefore, his evidence has to be discarded and cannot be considered against the accused. Despite sufficient opportunities, the prosecution could not also secure the presence of other witnesses and therefore, prosecution evidence is treated as

closed. As there is no incriminating evidence on record, statement of accused No.1 is dispensed with.

11. Points for determination and my findings thereon alongwith reasons are as under :-

<u>Sr. No.</u>	<u>Points</u>	<u>Findings.</u>
1.	Whether the prosecution proves that the accused had committed alleged offences, as per charge?	<u>No.</u>
2.	What Order?	<u>As per final order</u>

REASONS

AS TO POINT NO.1 :-

12. As stated earlier, after framing of charge, despite repeated summons issued to the complainant Shri. Kose, his presence could not be secured by the concerned police as he has retired from his service. Thus, the prosecution could not present said witness for cross-examination by the defence and therefore, his evidence has to be discarded and cannot be considered against the accused. Despite sufficient opportunities, the prosecution could not also secure the presence of other witnesses. It is seen from the record that the matter is pending since 1999 i.e. approximately for more than 27 years. Therefore, prosecution evidence is treated as closed. In the result, the prosecution could not examine any key witnesses and has also failed to prove the documentary evidence to establish the guilt of the accused for the aforesaid offences beyond reasonable doubts. Hence, this point is answered in the negative.

AS TO POINT NO.2 :-

13. In view of my findings to point No.1, accused No.2 is

entitled to be acquitted of the aforesaid offences. Since, the prosecution could not secure the presence of any witness, no purpose would be served in keeping the matter pending against absconding accused Nos.2. Thus, considering the age of the proceeding, it would be just and proper to discharge her of the offence. Accused No.3 is a partnership firm, which cannot be treated as an independent entity. In view of acquittal of accused No.1 and discharge of accused No.2, matter is disposed of against accused No.3. Consequently, in answer to point No.2, I pass the following order:-

-: **ORDER** :-

1.	Accused No.1 namely Pravin Shashikumarsingh Gautam is hereby, acquitted of the offence under Section 26-A punishable under Section 27-A(ii) and 28-B of the Drugs and Cosmetics Act, 1940 vide section 248(1) of the Code of Criminal Procedure, 1973.
2.	Bail bonds of accused No.1 stand canceled.
3.	Accused No.2 Mrs. Beena Mukesh Kumaran is discharged of the offence under Section 26-A punishable under Section 27-A(ii) and 28-B of the Drugs and Cosmetics Act, 1940.
4.	As accused No.2 is declared as proclaimed offender, her bail bonds if any, stand forfeited.
5.	For compliance of section 437-A of the Code of Criminal Procedure, accused No.1 is directed to execute P R. bond of Rs.7,000/-.
6.	The matter is disposed of against accused No.3 M/s. Associated Tobacco Products.
Judgment is pronounced in open Court.	

Nagpur
Dt. 10.03.2026

(Anamika D. Bose)
Addl. Chief Judicial Magistrate,
Nagpur.

(Judgment)

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R.C.C. No.3020032/1999
State Vs Pravin and Anr.

Endorsement

Case argued on	:	10.03.2026
Judgment dictated on	:	10.03.2026
Transcription ready on	:	10.03.2026
Judgment checked and signed on	:	10.03.2026

Certificate

I affirm that the contents of this PDF Judgment are same word to word, as per original Judgment

Name of Stenographer :- Vijaya S. Boharapi, Stenographer (Grade-I)