

MHPU080001542001

R.C.C. 700133/2001**State Vs. Mobin and anr.****ORDER BELOW EXH. 01**

(Passed on 24/06/2026)

1) Perused the record. Upon the perusal of record it depicts that on 17/01/2004 chargesheet is filed by police station Vishrantwadi against the accused Nos. 1 and 2 and against the accused persons Pavya @ Vakil Ansari and Ashu Kamaluddin Malik under Section 299 of Cr.P.C. for the offences punishable under Sections 392 and 341 read with Section 34 of the Indian Penal Code.

2) Upon the perusal of record it depicts that, on 14/05/2001 informant Naushad Malik lodged a report stating that he alongwith his brother Arshad was running business of Sarees with the name 'Banaras Dhamaka Sarees Sale'. On 27/04/2001 at about 09.00 a.m., he opened his shop and at about 11.00 p.m. he closed his shop. He went to sleep inside the shop. Some unknown person shouted from out side and when he opened the shop four persons entered in his shop. They threatened him with revolver, tied him by clothe's material and they robbed sarees and dress material from his shop. Thereafter, being aggrieved by the said incident on 14/05/2001 informant lodged report at Police station Vishrantwadi. Accordingly, Crime No. 37/2001 came to be registered against the unknown persons. After completion of investigation, the officer in-charge of the police station filed chargesheet against accused Nos. 1 and 2 and absconded accused persons Pavya @ Vakil Ansari and Ashu

Kamaluddin Malik.

3) The record depicts that since long neither accused Nos. 1 and 2 appeared nor prosecution secured their presence. Therefore, my Learned Predecessor issued warrants and proclamation against the accused Nos. 1 and 2 but their presence is not secured. Thereafter, the order of recording the evidence of the witnesses under Section 299 of Cr.P.C. came to be passed. As per summons report of informant Naushad Malik, Javed Malik and Arshad Malik, they were not residing on the addresses as informed by one person Raju Devkar, witness Arun Maruti Kalekar and Sanjay Kakade reported to be dead. Moreover, no information is collected about whereabouts of PSI M.V. Gaikwad. In pursuance of summons prosecution has secured presence of two witnesses.

4) Prosecution examined witness Santosh Bhosale PW 1 at Exh. 24 and Chandrakant Bhosale PW 2 at Exh. 25. They deposed that they do not know to the informant and accused. They do not know as to where, when and how incident occurred. They turned hostile. Since Santosh PW1 and Chandrakant PW 2 turned hostile prosecution declared them hostile and with the permission of the court cross-examined them. Even after cross-examining them nothing incriminating came against the accused from the mouth of said witnesses.

5) Upon perusal of the evidence placed on record, it appears that there is no incriminating evidence against the absconded accused Nos. 1 and 2. In spite of giving sufficient opportunities prosecution has not examined to the informant. Moreover, Santosh

PW 1 and Chandrakant PW 2 did not support the prosecution. It means that there is no sufficient evidence to prosecute against the absconded accused Nos. 1 and 2. The case is of the year 2001. Therefore, no purpose would be served by keeping matter pending unnecessarily.

6) In view of aforesaid backdrop and the circumstances of the case, it is desirable to dispose of this case on the ground that, there is no sufficient material to prosecute against the abscond accused Nos. 1 and 2. The charge against them appears to be groundless in absence of incriminating material against them. The case is of the year 2001 and near about 25 years old. No fruitful purpose would be served by keeping the case pending against them. Moreover, chargesheet came to be filed against absconded accused persons Pavya @ Vakil Ansari and Ashu Kamaluddin Malik under Section 299 of Cr.P.C. Therefore, liberty can be given to P.S.O. Vishrantwadi for filing separate chargesheet against them. Hence, in view of above observation, I pass the following order.

ORDER

- 1) The accused Nos. 1 and 2 are discharged vide Section 239 of the Code of Criminal Procedure from the charge levelled against them of the offences punishable under Sections 392 and 341 read with Section 34 of the Indian Penal Code.
- 2) The sized TATA Sumo bearing No. MH14-G-3735 is already handed over to its original owners on Supurtnama it be retained with him after the appeal period is over. The seized sarees, shirt, pant piece and Punjabi dresses if not handed over to their true owner they be handed over to their true

owner and if no claimant appear before the court they be sold in public auction and the amount released from them be forfeited and credited to the Government after the appeal period is over.

- 3) The bail bonds of the accused Nos. 1 and 2 are stands cancelled, if any.
- 4) The warrant issued against the absconded accused Nos. 1 and 2 be called back.
- 5) The Police Officer of the PS. Vishrantwadi is at liberty to file separate chargesheet against the absconded accused persons Pavya @ Vakil Ansari and Ashu Kamaluddin Malik whenever they trace out in near future.

Date : 24/06/2026

(Maimuna Sultana M.)
Judicial Magistrate First Class,
Khadki, Pune.

प्रमाणपत्र

मी अशी खात्री देते की, सदर पी.डी.एफ. फाईलमधील मजकूर मूळ आदेश/न्यायनिर्णयाप्रमाणे प्रत्येक शब्द बरोबर आहेत.

लघुलेखकाचे नाव	-	योगेश के. कोटस्थाने
न्यायालयाचे नाव	-	मैमुना सुल्ताना एम. न्यायदंडाधिकारी प्रथमवर्ग, खडकी, पुणे
आदेश/न्यायनिर्णय जाहीर केलेची दिनांक	-	२४/०६/२०२६
पिठासीन अधिकारी यांनी सही केलेली दिनांक	-	२४/०६/२०२६
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