


Committed on : 04/04/2024  
Registered on : 08/04/2024  
Decided on : 12/06/2026  
Duration : 02 Y, 02 M, 04 D.

<b>Part-'A'</b> <b>(Title Page of Judgment)</b> [Para 44 (ii) of Chapter VI of Criminal Manual]	
	<b><u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WASHIM.</u></b> Present: J. P. Zapate, Additional Sessions Judge, Washim [Date of the Judgment: 12/06/2026] [Sessions Case No.30/2024] <b><u>Exh.43</u></b> CNR No.MHWS010003502024
(Details of FIR/Crime and Police Station)	
Prosecution	State of Maharashtra through P.S.O. Washim-city, Tq. and Dist.Washim.
Represented By	APP Shri. P. S. Dhoble
Accused	1] <b>Shubham Anil Daliya</b> Age - 24 years, Occu- Labour r/o Shubham Chowk, Washim  2] <b>Ketan Shyamlal Mundhare</b> Age - 22 years, Occu- Labour r/o Kumbharpura, Washim
Represented By	Adv. Shri. S. D. More

**Part- 'B'**  
[Para 44 (ii) of Chapter VI of Criminal Manual]

Date of Offence	22/06/2023
Date of FIR	23/06/2023
Date of Charge-sheet	24/01/2024
Date of Framing of Charges	05/03/2025
Date of commencement of evidence	28/05/2026
Date on which judgment is reserved	--
Date of the Judgment	12/06/2026
Date of the Sentencing Order, if any	--

**Accused Details**

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1]	Shubham Anil Daliya	23/06/23	30/06/23	Sec. 328, 272, 273, 188 IPC and 59(i) Food Safety & Standard Act, 2006.	Acquitted	Nil	Not applicable
2]	Ketan Shyamlal Mundhare	23/06/23	30/06/23	-do-	-do-	Nil	Not applicable

**Part- 'C'**

[Para 44 (iii) of Chapter VI of Criminal Manual]

**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Specimen Chart for Witnesses Examined :**

Prosecution Witness No.	Name of Witness	Description
PW-1	Sachin Ramdas Gokhale	Informant
PW-2	Mangal Madhukar Gaikwad	Panch witness
PW-3	Sandip Prakash Duthonde	Police witness
PW-4	Alka Mohan Gaikwad	Investigating Officer

**B. Defence Witnesses, if any :**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW-1	Nil.	
DW-2	Nil.	

**C. Court witnesses if any :**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW-1	Nil.	
CW-2	Nil.	

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS****A. Specimen Chart for Exhibited Documents :**

Exhibit No.	Description of the Exhibit	Proved by/Attested by
Exh.28 and 29	Seizure panchanama	PW-1
Exh.30	Spot panchanama	PW-1
Exh.31	Complaint	PW-1
Exh.32	Printed FIR	PW-1
Exh.33 and 34	Arrest panchanama	PW-1
Exh.35	Summons	PW-1

**B. Defence :**

Sr.No.	Exhibit Number	Description
1.	Exhibit D-1/DW-1	Nil

**C. Court Exhibits :**

Sr.No.	Exhibit Number	Description
1.	Exhibit C-1/CW-1	Nil

**D. Specimen Chart for Material Objects/Muddemals :**

Material Object Number	Description of the Exhibit	Proved by/Attested by
1	Exhibit	Nil

**J U D G M E N T***(Delivered on this 12<sup>th</sup> of June 2026)*

Accused Nos.1 and 2 stands prosecuted for the offence punishable under Sections 328, 272, 273, 188 of the Indian Penal Code and Section 59(i) Food Safety & Standard Act, 2006.

**Prosecution Case :**

2. Brief facts of the prosecution need be stated at the beginning which are as under :-

On 22/06/2023, the informant received secret information that six persons are bringing scented Tobacco and Gutkha by railway in Washim. Therefore, informant and police team went at Railway Station where they found six persons holding bags on their shoulders and hands. They saw police and out of them four persons fled away, but police nabbed two persons, whose names are Shubham Anil Daliya and Ketan Shyamlal Mundhare and they taken search of bag and they found scented tobacco, pan masala and Gutkha of Rs.47,175/-. Hence, PSI – Sachin Gokhale lodged FIR.

3. On the basis of FIR present crime came to be registered. After registration of crime investigation started on its own wheels. The Investigating Officer arrested these accused, prepared panchanamas, recorded statement of trap team members. He referred muddemal to chemical analysis and after completion of investigation charge-sheet came to be filed before the Court.

4. As the offence is exclusively triable by the Court of Sessions, Ld. Magistrate complied with Section 207 of Cr.P.C. and thereafter he committed case to this Court under Section 209 of Cr.P.C. to this Court and thats how this Court envisaged jurisdiction to take cognizance under Section 193 of Cr.P.C.

5. Before framing of charge Ld.APP opened the prosecution case under Section 225 of Cr.P.C. After hearing both sides Ld. Predecessor framed charge below Exh.18.

6. Charge Exh.18 was read over and explained to accused into vernacular to which they pleaded not guilty and claimed to be tried. After

completion of prosecution evidence statement of accused under Section 313 of Cr.P.C. came to be recorded below Exhs.40 and 41. It reveals from the statement under Section 313 of Cr.P.C. and cross-examination of prosecution witnesses that defence of accused is of denial.

**Evidence :**

7. In this case, prosecution have adduced following witnesses. Prosecution have relied on following documents :

A] **Oral Evidence :**

PW-1	Sachin Ramdas Gokhale	Exh.27
PW-2	Mangal Madhukar Gaikwad	Exh.36
PW-3	Sandip Prakash Duthonde	Exh.37
PW-4	Alka Mohan Gaikwad	Exh.38

B] **Documentary Evidence :**

<b>Exhibit No.</b>	<b>Description of the Exhibit</b>
Exh.28 and 29	Seizure panchanama
Exh.30	Spot panchanama
Exh.31	FIR
Exh.32	Printed FIR
Exh.33 and 34	Arrest panchanama
Exh.35	Summons

8. The evidence of the prosecution side is closed by filing pursis below Exh.39.

9. Having heard perused record and proceeding following points arise for my consideration together with my findings thereon for the reasons recorded below :-

<b>S.No.</b>	<b>Points</b>	<b>Findings</b>
1	Does the prosecution prove that on 22/06/2023 in between 3.16 to 11.30 p.m. at Washim, both accused administered Pan Bahar, Pan Masala, Kesar Gutkha and scented tobacco and other	<b>In the negative</b>

	<p>stupefying thing to be taken by the public knowledgely it to be likely to cause hurt thereby to the public at large with the intention to commit or facilitated the commission of the offence and thereby committed an offence punishable under Section 328 of the Indian Penal Code ?</p>	
2	<p>Does the prosecution prove that on the above date time, place and during the course of same transaction both accused adulterated an article of food namely Pan Bahar, Pan Masala, Kesar Gutkha and scented tobacco, so as to make it noxious as a food and with the intention of selling such article as food or knowing it to be likely that the same will be sold as food and thereby committed an offence punishable under Section 272 of Indian Penal Code ?</p>	<b>In the negative</b>
3	<p>Does the prosecution prove that on the above date time, place and during the course of same transaction both accused offered and exposed for sale as food article namely Pan Bahar, Pan Masala, Kesar Gutkha and scented tobacco which had become noxious as a food and was in a state unfit for food knowledgely and having reason to believe that the same is noxious as food and thereby committed an offence punishable under Section 273 of Indian Penal Code ?</p>	<b>In the negative</b>
4	<p>Does the prosecution prove that on the above date time, place and during the course of same transaction both accused knowing that by an order of Commissioner of Food Safety of Maharashtra Government by circular, the State Government has prohibited the sale of Pan Bahar, Pan Masala, Kesar Gutkha and scented tobacco and promulgated lawfully empowered to promulgate the said order where under both accused were directed to obtain from the sale, exposure and possession of the said Pan Bar, Pan Masala, Kesar Gutkha and scented tobacco and both accused found their possession and disobeyed such direction, the disobedience</p>	<b>In the negative</b>

	which is likely to cause suffering to public at large and thereby committed an offence punishable under Section 188 of Indian Penal Code ?	
5	Does the prosecution prove that on the above date time, place and during the course of same transaction both accused stored, distributed and imported the above said Pan Bahar, Pan Masala, Kesar Gutkha and scented tobacco for human consumption which is unsafe and and thereby committed an offence punishable under Section 59 (I) of Food Safety and Standards Act, 2006 ?	<b>In the negative</b>
4	What order ?	As per final order.

### **REASONS**

#### **As to Point No.1 to All :-**

10. In this case, the major charge is leveled under Section 328 of IPC, which contains for sale of poisonous substances. PW-1 Sachin Ramdas Gokhale is informant. He has stated as per the terms of FIR. But his evidence does not show that whatever was seized from the accused was in conscious possession and its contents were poisonous substance.

11. PW-2 Mangal Madhukar Gaikwad has turned hostile. He was member of leading party and independent witness. But he has not identified these accused. PW-3 Sandip Prakash Dutonde was also trap member. His evidence does not show as to exactly what material was seized from the accused. PW-4 Alka Mohan Gaikwad is Investigating Officer. Her evidence is also silent about the description of articles seized from these accused.

12. In this matter, chemical analysis report does not show that any poisonous substance was seized. The prosecution have not produced and proved the notification No.496/2023, dtd. 18/07/2023. Publication of the

notification in newspaper and in official Gazettee is also not proved. Therefore, it cannot be said that these accused contravened the notification issued by the Government.

13. The some and substance of discussion is that there is no sufficient evidence to hold the accused are guilty. But the evidence shows clouds of doubt on the prosecution story. It is settled position of law that whenever doubt arises then its benefit must be given to the accused, because surmises and supposition cannot take place of proof howsoever they strong may be. Today, the accused No.2 is absent. Accused No.1 is present. Exemption of accused No.2 is granted. Therefore, considering the evidence, judgment can be delivered under Section 353 (6) of Cr.P.C. Hence, I record my findings to point Nos.1 to all in negative and pass following order :-

### **ORDER**

- 1] Accused No.1 **Shubham Anil Daliya** and accused No.2 **Ketan Shyamlal Mundhare** stand acquitted as per Section 235 (1) of Cr.P.C. for the offence punishable under Sections 328, 272, 273, 188 of the Indian Penal Code and Section 59(i) Food Safety & Standard Act, 2006, 1860
- 2] Bail bonds of the accused stand discharged.
- 3] Seized muddemal i.e. Pan Bahar, Pan Masala, Kesar Gutkha and scented tobacco of the crime being worthless be destroyed as per rule, after expiry of appeal period is over.
- 4] Custody of the mobile-phone with accused No.1 Shubham Anil Daliya is hereby made absolute, after expiry of appeal.
- 5] The accused shall furnish bail as per Section 437 (A) of the Cr.P.C. to appear before Appellate Court in case of appeal against acquittal.

Judgment dictated, delivered and pronounced in open Court.

Date : 12/06/2026

(J. P. Zapate)  
Additional Sessions Judge,  
Washim.

**CERTIFICATE**

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

Name of the Stenographer	:- Nitin B. Khandare, Stenographer (Grade-1)
Court Name	:- District Judge-1 & Additional Sessions Judge, Washim
Order Date	:- 12/06/2026
Order signed by the Presiding Officer on	:- 12/06/2026
Order uploaded on	:- 12/06/2026