

Committed on : 25/08/2022
 Registered on : 13/09/2022
 Decided on : 04/07/2026
 Duration : 03 Y. 09 M. 21 D.

<u>Part-'A'</u> (Title Page of Judgment) <i>(Para 44 (ii) of Chapter VI of Criminal Manual)</i>	
	<u>IN THE COURT OF ADDL. SESSIONS JUDGE, WASHIM</u> Present: J. P. Zapate, Additional Sessions Judge, Washim (Date of the Judgment: 04/07/2026) (Sessions Case No. 94/2022) CNR No. MHWS010014782022
<u>Exh. No.27</u>	
Complainant/ Prosecution.	State of Maharashtra, Through Police Station, Ansing, Dist. Washim. Crime No. 153/2019
Represented By	APP Mr. S. N. Kaloo for the prosecution.
Accused	Asif Suleman Akbani Aged about 50 years, Occu. Labour R/o. Ansing, Tq. Dist. Washim.
Represented By	Adv. Mr. A. S. Bakliwal for the accused.

Part – 'B'
(Para 44 (ii) of Chapter VI of Criminal Manual)

Date of Offence	02/06/2019
Date of FIR	13/07/2019
Date of Charge-sheet	23/10/2019
Date of Framing of Charges	21/08/2024
Date of commencement of evidence	09/01/2025
Date on which judgment is reserved	--
Date of the Judgment	04/07/2026.
Date of the Sentencing Order, if any	Nil.

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	Asif Suleman Akbani	21/09/2019	21/09/2019	Sections 328, 273, 188 of IPC r/w Section 59 of Food Safety and Standards Act, 2006.	Acquitted	Nil.	Not applicable

Part- 'C'

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

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW-1	Mohammad Samir Mohammad Sayeed	Panch witness
PW-2	Raju Madhukar Bondre	Panch witness.
PW-3	Nilesh Ramdas Tathod	Informant.

B. Defence Witnesses, if any :

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

C. Court witnesses, if any :

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

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution**

Sr. No.	Exhibit Number	Description
1.	Exh. 24.	FIR

B. Defence :

Sr. No.	Exhibit Number	Description
1.	Nil.	Nil.

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1.	Nil.	Nil

D. Material Objects :

Sr. No.	Exhibit Number	Description
1.	Nil.	Nil

J U D G M E N T*(Delivered on this 4th of July 2026)*

Accused stands prosecuted for the offence punishable under Sections 328, 273, 188 of IPC r/w Section 59 of the Food Safety and Standards Act, 2006.

2) It is the prosecution story that on 02/06/2019 police station

Ansing effected raid on Maharashtra Goli Bhandar and house of the accused at Ansing and they found prohibited articles i.e. Scented-tobacco, Pan-masala and Gutkha of various company in his shop worth was Rs.28,975/-. They seized it and brought in the police station. Thereafter, Food Officer lodged FIR.

3) On the basis of FIR, present crime came to be registered. They arrested the accused and after completion of all formalities submitted charge-sheet before the Court.

4) The Ld. Magistrate, after complying with provisions of Section 207 of Cr.P.C., committed the case under Section 209 of Cr.P.C. and this Court possess jurisdiction to take cognizance under Section 193 of Cr.P.C.

5) After opening the case by the Ld. APP, both parties were heard. Thereafter, charge at Exh.08 came to be recorded. After recording of prosecution evidence, they closed evidence by pursis Exh.25. Thereafter, statement of accused under Section 313 of Cr.P.C. came to be recorded below Exh.26. Defence is of denial.

6) Having heard, following points arise for my consideration together with my findings there on for the reasons recorded below :-

Sr. No.	Points	Decision
1)	Whether the prosecution proves that on 02/06/2019, at Ansing, accused administered Scented-tobacco, Pan-masala and Gutkha of various company containing Tobacco and other stupefying thing to be taken by the public knowingly it to be likely to cause hurt thereby to the public at large with the intention to commit or facilitate the commission of the offence and	In the Negative.

	thereby committed an offence punishable under Section 328 of IPC and within the cognizance of this Court ?	
2)	Whether the prosecution proves that on the same same date, time and place and during the course of same transaction, the accused offered and exposed for sale as food articles i.e. Scented-tobacco, Pan-masala and Gutkha of various company containing tobacco which had become noxious as a food and was in a state unfit for food knowingly and having reason to believe that the same is noxious as food and thereby committed an offence punishable under Section 273 of IPC and within the cognizance of this Court ?	In the Negative.
3)	Whether the prosecution proves that on the same same date, time and place and during the course of same transaction, the accused knowing that by and order of the Commissioner of Food Safety of Maharashtra Government by circular, the State Government has prohibited the sale of Scented-tobacco, Pan-masala and Gutkha of various company containing tobacco and promulgated lawfully empowered to promulgate the said order where under the accused was directed to obtain from the sale, exposure and possession of the said Tobacco and the accused found in his possession and have disobeyed such directions, the disobedience which is likely to cause suffering to public at large and thereby committed an offence punishable under Section 188 of IPC and within the cognizance of this Court ?	In the Negative.
4)	Whether the prosecution proves that on the same same date, time and place and during the course of same transaction, the accused stored, distributed and imported the Scented-tobacco, Pan-masala and Gutkha of various company containing tobacco for human consumption	In the Negative.

	which is unsafe and thereby committed an offence punishable under Section 59 of Food Safety and Standards Act, 2006 and within the cognizance of this Court ?	
5)	What Order ?	.. As per final order.

REASONS

As to Point Nos. 1 to 4 :-

7) In the case, PW-1 Mohammad Samir Mohammad Sayeed is not supported the prosecution story. PW-2 Raju Madhukar Bondre has also not supported the prosecution. Both of them were panch witnesses on the seizure panchanama of prohibited food articles. But there evidence is of no use for the prosecution. Prosecution have examined informant – PW-3 Nilesh Ramdas Tathod (Food Officer). He has stated that he inspected the seized muddemal in Ansing police station and drawn two samples and sent it for Chemical Analysis Laboratory. But during his cross-examination, he has stated that four samples ought to have been drawn, but he has not complied with Section 47 of the Food Safety and Standards Act, 2006. He has further stated that there was no poisonous substance in the seized food articles. The prosecution have not proved possession of the accused over seized articles, because both panchas on seizure panchanama have not supported to the prosecution. There is no compliance of Section 47 of the Food Safety and Standards Act. Therefore, there is a breach of mandatory provisions. Hence, in the absence of it, accused could not be held guilty. Therefore, I record my findings in the negative as to point Nos. 1 to 4 and pass following order :-

ORDER

1. The accused **Asif Suleman Akbani** is acquitted of the offences punishable under Sections 328, 273, 188 of IPC r/w Section 59 of Food Safety and Standards Act, 2006, vide section 235 (1) of Cr.P.C.
2. The bail bond of accused stands cancelled and surety discharged.
3. The accused is hereby directed to execute bail bonds of Rs. 25,000/- (Rs. Twenty five thousand only) with one solvent surety in the like amount in compliance with the provision of Section 437 (A) of Cr. P. C.
4. 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.
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).

Place :- Washim
Date :- 04/07/2026.

(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
Judgment/Order Date	:- 04/07/2026
Dictated on	:- 04/07/2026
Typed on	:- 04/07/2026
Judgment/Order checked and signed by the Presiding Officer on	:- 04/07/2026
Judgment/Order uploaded on	:- 04/07/2026