

MHMM2100
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Received on : 12.01.2021

Registered on : 12.01.2021

Decided on : 07.08.2026

Duration : 05Y 06M 26D

IN THE COURT OF JUDICIAL MAGISTRATE (FIRST CLASS),
42nd COURT, SHINDEWADI, DADAR, MUMBAI.
(PRESIDED OVER BY S. D. CHAKKAR)

C.C. NO. 4200001/PS/2021

Exh.No.41

The State of Maharashtra.
(Through Sr. P. I. of Nehru Nagar,
Mumbai)

.... Prosecution.

V/s.

Mr. Dharamraj Kaluram Mourya.
Age: Adult. Occu. - Service,
R/at. Flat No. 703, 7th Floor, A-wing, Pragati CHS Ltd.,
Vaishali Building, Chembur, Near Eastern Express Highway,
Mumbai 400071.

...Accused.

07.08.2026

Charge : Under section 8 r/w 21 of the Maharashtra (Urban Areas) Protection & Preservation of Trees Act, 1975.

Appearance : Ld. APP Mr. S. P. Patil for the State.
Ld. Adv. Mr. Anoop Kumar Pal for accused.

J U D G M E N T

(Delivered on 07.08.2026)

The accused is prosecuted for the offence punishable under section 8 r/w 21 of the Maharashtra (Urban Areas) Protection & Preservation of Trees Act, 1975 (Hereinafter referred to as the 'Trees Act' for brevity).

2. Briefly stated the facts of the prosecution case as under-

The first informant that accused illegally cut tree from the said site and made violation of the condition given by the tree authority and apart from obtaining order from Municipal corporation and thereby committed an offense under section 8 punishable under section 21 of the Tree Act.

3. Particular prepared vide Exh.26. It read over to the accused in vernacular. The accused pleaded not guilty and claimed to be tried.

4. The points for determination along with my findings thereon are as under :-

POINTS**FINDINGS**

- 1) Does prosecution prove that on or before 29.06.2020 at Chawl No.28, Pada Number 6, Thakkar Bappa Colony, Chembur (East), Mumbai accused illegally cut Tree without taking prior permission of Municipal Corporation and thereby committed an offense U/s 8 r/w 21 of the Maharashtra Urban Areas Protection and preservation of Tress Act 1975?No.
- 2) What order ? Accused is acquitted.

REASONS

5. In order to establish the guilt of accused, the prosecution has examined Amol Vitthal Ingale, (PW-1 at Exh.32), Laxman Chunilal Chitara (PW-2, At Exh.38) and Omprakash Surajmalji Choratiya (PW-3, at Exh.39) and relied on some documents. In defence, accused has neither examined himself nor produced any documents. Heard, both side learned counsels.

As to Point No.1

6. Amol Ingale (PW-1) has deposed that, he was posted as Junior Tree officer in M/W ward since July 2017 to February 2025. His duty is to do maintenance of garden and trees and to take legal action against Unauthorised tree cutting. He has authorised by Superintendent of Garden Mr. Pardeshi. On 29.06.2019 complaint was received by local

corporator namely Rajesh Fulwaria regarding cutting of branch of pimpal tree at Chawl No. 28, Pada no.6, Thakkar bappa colony, Chembur, Mumbai. On the same day he visited the site and found that one branch of Pimpal tree was cut. He has taken one photograph with the help of his mobile. He prepared inspection report at Exh.33. After receiving the sanction he gave one letter with the signature of Assistant Superintendent of garden to Nehru nagar police station the said letter is at Exh.34. On 27.10.2020 he lodge the report. FIR is at Exh.35. He further deposed that his department was granted permission to cut the small branches of the tree but accused cut one big branch of the tree. He identified to the accused in court.

7. PW-1 Amol has admitted in his cross examination that he has not filed any documentary evidence to show that he has authority to take action. From this admission it appears that he has no authority to take the action. He further admitted that on the basis of guess he has mentioned that one big branch of tree was cut and actual measurement was not made. This fact shows witness Amol without taking measurement of size of branch on the basis of guess saying that big branch cut. There is no any documentary evidence to show that branch was big. He further admitted that he has not filed certificate u/s 65 B of the evidence act with the photo this fact itself shows that prosecution has failed to prove the photo of the branch and therefore it cannot be read in evidence. He further admitted that complaint was received on 29.06.2019 and he lodge FIR on 15.12.2020. FIR lodge after more than 5 months but informant has not given any satisfactory explanation in respect of delay to file the FIR and therefore delay is vital for the case of

prosecution. He further admitted in his cross examination that he cannot tell whether branch of tree cut by the accused or other person. Above admissions made the case of prosecution doubtful and untrustworthy.

8. PW-2 Laxman has deposed that he has taken shop of chappal on rent. One officer has came and asked him about shop. He wrote his name and he do not know anything more about the matter. He has not supported to the prosecution. Hence, prosecution asked question to him which can be asked in cross examination with the permission of court. He thereafter deposed that police has not recorded his statement. Question marked A in statement read over to him but he denied that he told contents to police. He has not deposed anything against the accused hence his evidence is not useful to the prosecution.

9. PW-3 Omprakash has deposed that he do not know anything about the incident. Police has recorded his statement and he know to the accused. He has seen that branch of one tree was cut but he do not know who has cut it. Thereafter Ld. APP asked him questions which can be asked in the chief examination with the permission of court. Thereafter he deposed that he has not seen the accused while cutting the branch of tree, police was recorded his statement. He denied that accused Dharamraj cut a branch of tree. Therefore his evidence is not useful to the prosecution.

10. On perusal the evidence of PW-1 to PW-3 and documents on record it appears that prosecution has miserably failed to prove that accused has cut the branch of tree and committed offense as alleged.

Therefore I am giving finding to the point no.1 in the negative.

As to Point No.2

11. I have already given finding to point no.1 in the negative. Therefore accused is entitled to the acquittal. Hence I pass the following order for the answer of Point no.2.

ORDER

- 1 Accused Mr. Dharamraj Kaluram Maurya, is hereby acquitted of the offense punishable under section 8 r/w 21 of the Maharashtra (Urban Areas) Protection & Preservation of Trees Act, 1975, vide section 278 (1) of the Bhartiya Nagarik Surkasha Sanhita, 2023.
- 2 Accused furnished surety vide section 481 of the Bhartiya Nyay Sanhita, 2023. His bail bonds shall be in force for a period of six months since today.
- 3 Bail bonds of accused filed in initial stage are canceled.
- 4 Judgment is pronounced and dictated in open court.

(S. D. Chakkar)

Judicial Magistrate (First Class),

Date : 07.08.2026

42nd Court, Shindewadi, Dadar Mumbai

Dictated on 07.08.2026

Transcribed on 07.08.2026

Signed on 07.08.2026

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07.08.2026