

Date of institution :
Date of decision :
Remained pending for :
Days Months Years.

**BEFORE THE HON'BLE COURT OF ADDITIONAL JUDICIAL
MAGISTRATE FIRST CLASS, VAPI.**

CC NO: 6025/2022

Ex:.....

Complainant: The State of Gujarat.

Versus

Accused: Mr. Anil Chhutta Mandal

Resident of Tokarkhada, Silvassa

Appearance : APP. Mr. T. V. Chaudhary for Complainant.

Proceedings under Section 299 of the Cr.P.C.

**Offence:- Under Section 66(1)(b) of
Gujarat Prohibition Act**

-: JUDGMENT :-

1. BRIEF FACTS OF THE CASE:-

The complainant has filed the FIR before Dungara Police Station vide Prohi Cr. No. 809/2022 alleging commission of offence of Consuming Contraband Liquor which is prohibited under the Gujarat Prohibition Act. Upon investigation by the Police Officers the Chargesheet has

been presented before this court against accused alleging the commission of offence under section 66(1)(b) of The Gujarat Prohibition Act.

2. TAKING COGNIZANCE:-

Upon institution of charge-sheet this court has passed order to issue summons to the accused under Section 204 of the Code of Criminal Procedure, 1973. The summons issued to the accused has returned with the endorsement that the accused has not been found residing at the address shown in the Charge Sheet. Therefore, the court has proceeded against the accused under section 299 of the Code of Criminal Procedure, 1973 and the evidence has been recorded and the prosecution has been given opportunity to prove the case against the accused.

3. EVIDENCE OF PROSECUTION :-**Documentary evidence**

Documents	Descriptions
Exh.03	Panchnama for physical appearance of accused.

Oral Evidence

Exhibit	Deposition of witness
Exh. 02	Mr. Suresh Parsottam Tailor
Exh.04	Mohmaad Rehan Hakimuddin Khan.

4. APPRECIATION OF EVIDENCE:-

- 4.1 This court has perused the entire record and the deposition of the witness are worth reading at this juncture.
- 4.2 This court has perused the deposition of panchas who have deposed that no panchnama was executed in their presence. They have also deposed that they had put signatures as and when instructed by the police therefore, they do not know any fact as to physical appearance of the accused and no person was found having consumed the liquor in their presence. Learned APP has declared the panchas Hostile and in the cross examination, the pancha has admitted that they do not know anything about the alleged offence and thus, the contents of Panchanama has remained not proved.
- 4.3 Upon examining the witness of prosecution, this court was of the opinion that no evidence against the accused has been brought on the record therefore, Further statement of the accused has not been recorded and both the APP and learned advocate of accused have been given ample opportunity of being heard and the matter is kept for its final decision.
- 4.4 This court firmly believes that there is settled principle of criminal jurisprudence that the prosecution has to prove the case beyond reasonable doubt. If the entire evidence on the record is taken into consideration and read

minutely this court is of the opinion that the prosecution has miserably failed in discharging the onus he has on his head. Therefore in severe lack of any evidence, documentary or oral, direct or circumstantial against the accused this court passes following order in the wider interest of justice.

ORDER

- I. The accused **Mr. Anil Chhutta Mandal** Resident of Tokarkhada, Silvassa is held acquitted under Section 248 (1) of The Code of Criminal Procedure, 1973 from the allegation of commission of offence under Section 66(1)(b) of The Prohibition Act.

Pronounced and signed on 17th day of May, 2023 in the open court.

Dt: 17/05/2023.

Vapi.

(Ms. M. J. Kikani)

GJ01549

Additional Judicial Magistrate First Class.

Vapi.