

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1883 OF 2013

The State of Maharashtra,
Through Prashant Bhaskarrao Umrani,
Age-45 years, Food Inspector,
Food and Drugs Administration,
Raj Building, SRPF Road, Jalna.

...APPLICANT
(Orig. Complainant)

VERSUS

Sk. Mazhar Mohd. Taher,
Age-30 years, Occu:Trade
Vendor and Proprietor of
M/s. Mazhar Tobacco Stores,
situated at Dana Bazar, Jalna

...RESPONDENT
(Ori. Accused)

WITH

CRIMINAL APPLICATION NO.1889 OF 2013

The State of Maharashtra,
Through Prashant Bhaskarrao Umrani,
Age-45 years, Food Inspector,
Food and Drugs Administration,
Raj Building, SRPF Road, Jalna.

...APPLICANT
(Orig. Complainant)

VERSUS

Sk. Mazhar Mohd. Taher,
Age-30 years, Occu:Trade
Vendor and Proprietor of
M/s. Mazhar Tobacco Stores,
situated at Dana Bazar, Jalna

**...RESPONDENT
(Ori. Accused)**

...
Mr.A.B. Girase P.P. for Applicant.
Mr. S.A.G. Qureshi Advocate for Respondent.
...

CORAM: A.I.S. CHEEMA, J.

DATE : 26TH NOVEMBER, 2015

ORDER :

1. Heard learned Public Prosecutor for the State in both these matters and learned Advocate Mr. Qureshi for Respondent-accused. The conviction awarded by the J.M.F.C. has been reversed by the Appellate Court.

2. Learned Public Prosecutor submitted that the Sessions Judge interfered on the ground that there was no valid consent under Section 20 of the Prevention of Food Adulteration Act.

3. It is stated by the learned counsel for the Respondent-accused that the In-charge Commissioner granted consent and he could not have granted the consent being delegated power. It is stated that the sample was also analyzed after two months and the person who examined the sample was not brought before the Court for evidence.

4. Going through the Judgment of the J.M.F.C. vis-a-vis the Judgment of the Sessions Court, there is necessity appearing to re-examine the evidence and the law.

5. As such leave is granted in both the matters. Both the Applications are allowed. Both the Criminal Applications be registered as Criminal Appeals.

6. Both the Appeals are **Admitted**. Mr. Qureshi, learned counsel waives service of notice for Respondent in both the Appeals, after

admission of the Appeals.

7. Paper Books be got prepared.

8. Action under Section 390 of Code of Criminal Procedure be taken against Respondent-accused in the trial Court.

[A.I.S. CHEEMA, J.]

asb/NOV15