

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 374 OF 2000

State of Maharashtra :: **APPELLANT**

-: Versus :-

Adam Noormahamad Pirjad (Gawandi)
Dattanagar, Lane No.4,
Ichalkaranji,
Distt. Kolhapur.

:: **RESPONDENT**

Mr. A. S. Shitole, A.P.P. for respondent No.3-the State.
Mr. A. B. Dagar, Advocate, i/by Mr. P. P. Kulkarni, Advocate for the
respondent.

CORAM : S. B. SHUKRE, J.
1st JULY, 2015

ORAL JUDGMENT

1. This is an appeal preferred against the judgment and order dated 30/01/1999 passed in Summary Criminal Case No. 16479 of 1997 by Judicial Magistrate, First Class, Ichalkaranji, thereby acquitting the respondent of the offence punishable under Section 14(1) of the Child Labour (Prohibition & Regulation) Act, 1986 (hereinafter referred to as, “the Child Labour Act” for short). Briefly stated, the facts of the case are as under.:

It has been alleged that during the survey conducted from

10/3/1997 to 31/5/1997, respondent was found to have engaged a child labour aged about 10 years in contravention of directions given by the Hon'ble Apex Court in the case of *M. C. Mehta Vs. State of Tamilnadu* in Writ Petition No. 465 of 1986 and also the prohibition contained in Section 3 of the Child Labour Act. The child was found to have been engaged as labour by respondent in the survey carried on 13/3/1997 and it was noticed that the child was engaged in a building construction work. Therefore, after obtaining necessary sanction from the Additional Labour Commissioner, Pune, a complaint was filed against respondent before the Court of Judicial Magistrate, First Class, Ichalkaranji.

Particulars of the offence were read over and explained to the respondent to which he pleaded not guilty and claimed to be tried. On merits of the case, learned Magistrate found that prosecution could not prove its case against respondent and, therefore, by his judgment and order dated 30/01/1999, acquitted respondent of the offence with which he was charged in the present case. Not being satisfied with the said judgment, the State is before this Court in the present appeal.

2. It is seen from the impugned judgment and order that learned Magistrate has acquitted the respondent on two grounds, namely; there was no sanction given by the superior officer and

that the activity, 'building construction' was not covered in the afore-stated case of *M. C. Mehta* by Hon'ble the Apex Court.

3. There is no dispute about the fact that the activity of building construction did not find any mention in the hazardous activity enlisted in the afore-stated judgment of Hon'ble Apex Court rendered in the case of *M.C. Mehta*. On perusal of the Child Labour Act also, this activity was not stated in either part-A or Part-B of the Schedule to the said Act at the time when alleged offence was committed. The entry relating to 'building and construction industry' has been inserted in Part-B of the Schedule by way of an amendment, which came into effect on 10/5/2001. It is obvious that the building construction activity was not covered either under prohibition contained in the Child Labour Act or in the directions given by the Hon'ble Apex Court in the afore-stated case of *M.C. Mehta*. Therefore, learned Magistrate was right in holding that no offence was committed by the respondent in the instant case.

4. Learned Magistrate has also found that there was no valid sanction. However, I could not come across any specific provision requiring need for obtaining of sanction for prosecution of the accused under the Child Labour Act nor learned A.P.P. could point out to me existence of any such provision on the

Statute book. Be that as it may. I have already found that the order of acquittal of the respondent, passed by the learned Magistrate on the ground that building activity was not a banned activity, could not be faulted with and, therefore, I am of the view that no case has been made out for interfering with the impugned judgment and order. Appeal deserves to be dismissed.

The appeal stands dismissed.

S. B. SHUKRE, J.