

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.565 of 1993

The State of Maharashtra	.. Appellant
<i>Versus</i>	
Shankar Bhiku Walapkar	.. Respondent

Mrs.S.Gajare-Dhumal, APP for the appellant State.

Mr.Chaitanya K. Pendse i/b Mr.PB.Jadhav, Advocate for the Respondent.

CORAM : ABHAY M. THIPSAY, J.

DATED : 14th JULY, 2015

ORAL JUDGMENT :

1 On the basis of a police report, the respondent was prosecuted on the allegation of having committed an offence punishable under section 33 of the Maharashtra Medical Practitioners Act, 1961 (for short 'MMP Act') and section 417 of the IPC read with section 511 thereof. The Judicial Magistrate First Class, Dapoli, after holding a trial, by a judgment and order dated 11th May 1993, acquitted the respondent of the said offences. The State of Maharashtra is aggrieved by the said order of acquittal and has therefore, after obtaining leave of this Court, filed the present appeal, challenging the correctness of the judgment of acquittal delivered by the learned Magistrate.

2 For the sake of convenience and clarity, the respondent is hereinafter referred to as 'the accused'. (except in the operative part of the order)

3 I have heard Mr. C.K.Pendse, learned counsel for the appellant. I have heard Mrs.S.Gajare-Dhumal, learned APP for the State. With the assistance of the learned counsel, I have gone through the record of the case. I have carefully gone through the evidence adduced during the trial and the impugned judgment.

4 The prosecution case, as put forth, before the trial court may be stated thus :-

One Dattatraya Kulkarni (PW 1) used to perform magic shows by visiting different villages. In the month of December 1987 he had gone to village Gaotale. At that time, he saw one board of dispensary in which the name with “Dr.S.V. Walapkar” was written and degree 'B.A.M.S' was mentioned against the said name. On the board, registration number '13396' was also written. Kulkarni suspected the board to be bogus. Kulkarni then made inquiries about the said registration number, and learnt that it had been given to one Dr.Laxman Satvi. Kulkarni then reported the matter to the police by writing a letter (Exhibit-9), addressed to the Superintendent of Police, Ratnagiri. This letter was sent by the Superintendent of Police to Hirachand Umbarkar (PW 5) who was, at the material time, working as a Sub-Inspector of Police at Dapoli. Umbarkar made preliminary inquiries in the matter. The respondent was called in the course of

the inquiry, and he produced three certificates before Umbarkar. The copies of the certificates were sent by Umbarkar to the Maharashtra Council of Indian Medicine (hereinafter referred to as 'the Medical Council') for examination and opinion. The Medical Council replied that the certificates produced by the respondent were not recognized in Maharashtra. The communication sent by Medical Council also mentioned that the respondent was neither registered as a medical practitioner in Maharashtra nor was he entitled for registration. It was advised that action could be taken against him in respect of offences punishable under section 33 and 36 of the Maharashtra Medical Practitioners Act for illegally practicing medicine and for using the abbreviations "DR" and "B.A.M.S" with his name. Thereafter, Umbarkar lodged a report alleging commission of the offence punishable under section 33 of the MMP Act against the accused which was registered as First Information Report by Shashikant Sawant (PW 6), Police Head Constable who is the Investigating Officer in the matter.

5 The prosecution examined totally six witnesses during the trial. Kulkarni (PW 1), Umbarkar (PW 5) and Shashikant Sawant (PW 6) have already been referred to earlier. The other three witnesses Vikas Mhabdi (PW 2), Shashikant Pawar (PW3) and Vithoba Pawar (PW 4) are the patients who had taken medical treatment from the accused.

6 At the outset, some curious aspects of the matter must be mentioned. The first is that the allegation against the accused was that he had committed offences punishable under sections 33 and 36 of the MMP Act. However, the police report that was filed,

though clearly mentioned that the accused has been practicing in a system of medicine without having the requisite qualification, or without having the necessary registration alleged violation only of the provisions of section 36 of the MMP Act, and did not refer to section 33 at all. This is despite the fact that the Medical Council had categorically opined that the accused could be prosecuted in respect of the offences punishable under sections 33 and 36 of the MMP Act.

7 It would be convenient to reproduce section 33 and section 36 of the MMP Act.

33.(1)Notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court, no person other than a medical practitioner whose name is entered in -

- (i) the register maintained under this Act; or
- (ii) the register or the list prepared and maintained under the Bombay Homeopathic and Biochemic Practitioners' Act, 1959 or under any other law for the time being in force in relation to the qualifications and registration of Homeopathic or Biochemic Practitioners in any part of the State; or
- (iii) the register prepared and maintained under the Maharashtra Medical Council Act, 1965; or
- (iv) the Indian Medical Register prepared and maintained under the Indian Medical Council Act, 1956,

shall practise any system of medicine in the State :

(2) Any person, who acts in contravention of any of the provisions of sub-section (1) shall, on conviction, be punished -

(a) for the first offence, with rigorous imprisonment for a term which shall not be less than two years but which may extend to five years and with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees :

(b) for a second or subsequent offence, with rigorous imprisonment for a term which may extend to ten years and with fine which may extent to ten thousand rupees.

Provided that when the contravention is continued after the order of conviction, a further fine which may extent to five hundred rupees, for each day of continuation of such contravention, may be imposed.

36. (1) No person shall add to his name, any title, description, letters or abbreviations which imply that he holds a degree, diploma, licence or certificate or any other like award as his qualification to practise any system of medicine unless -

(a) he actually holds such degree, diploma, license or certificate or any other like award; and

(b) such degree, diploma, license or certificate or any other like award -

(i) is recognized by any law for the time being in force in India or in part thereof, or

(ii) has been conferred, granted or issued by a body or institution referred to in sub-section (1) of Section 35, or

(iii) has been recognized by the Medical Council of India, or

(iv) has been recognized by the Central Council of Indian medicine.

(2) Any person, who contravenes the provisions of sub-section (1) shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than one year but which may extent to three

years and with fine which shall not be less than one thousand rupees but which may extend to five thousand rupees; and when the contravention is a continuing one, with further fine which may extend to two hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Since in the police report the allegation against the accused was that he was practicing in a system of medicine in Maharashtra without being registered as a medical practitioner, and without being entitled for such registration, and also that he had been using the abbreviation “DR” and “BAMS” with his name, the penal sections as applicable to the instant case should have been mentioned as section 33 and section 36 of the MMP Act, but for some strange reason, only a mention of section 36 of the MMP Act, was made.

8 The other curious aspect is that the case was being tried summarily by the learned Magistrate. After the entire evidence was adduced, the learned Magistrate decided to try the case as per the procedure prescribed for trial of warrant cases, and framed a charge against the accused in respect of offences punishable under section 36 of the MMP Act, and section 417 of the IPC r/w section 511 of the IPC (wrongly mentioned as ‘section 511 of the IPC r/w sec.417 of the IPC’). The prosecution had made an application praying that the accused was liable to be punished for attempting to cheat, and therefore, a charge of an offence punishable under section 417 of the IPC r/w section 511 thereof also be framed against him. This was opposed by the accused, but the learned Magistrate was of the opinion that there

were grounds for framing the charge of an attempt to commit cheating also. He, therefore, framed a charge of an offence punishable under section 417 of the IPC r/w section 511 of the IPC (wrongly mentioned as section 511 of the IPC r/w sec.417 of the IPC). The order passed by the Magistrate in that regard reads as under :-

“As the charge under section 511 of the IPC r/w section 411 of the IPC is punishable for more than two years hence the case be treated as regular case and fresh number be given”.

9 This is rather strange. Section 417 of the IPC provides a punishment of Imprisonment for a period of one year only, and certainly not 'more than two years'. Moreover, section 511 of the IPC provides that the punishment for attempting to commit an offence shall extend to half of the longest term of Imprisonment provided for that offence. Therefore, even if section 417 of the IPC had provided a higher sentence – say a sentence of three years – still the punishment for attempting to commit the offence would be less than two years. This observation of the Magistrate is therefore, patently incorrect. Of course, nothing turns on this, but it was thought necessary to mention this aspect of the matter just for correction.

10 Coming to the evidence of Dattatraya Kulkarni, he has given the grounds for suspecting that the degree 'BAMS' as shown by the accused on the board put on his dispensary being bogus. He appears to have made some inquiries on his own perhaps in

public interest which got the suspicion felt by him strengthened, and he then addressed a communication to the District Superintendent of Police, expressing his suspicion, and requiring action to be initiated in the matter. In the cross-examination, it turns out that he is a commerce graduate. It was got from him in the cross-examination that the dispensary of the accused was situate in rural area.

11 Vikas (PW 2), Shashikant (PW 3) and Vithoba (PW 4) who all are patients of the accused are full of praise for him. All of them have said in the examination--in-chief that the accused was practicing in their village at the material time, and also on the date on which the evidence of these witnesses, was recorded. The accused was practicing in village Gaotale. Vikas (PW 2) had taken medicine from the accused on a prescription, and that accused had given some tablets to him. The case paper in respect of the treatment given by the accused to him, was produced before the Court. In the cross-examination, he said that the accused had given him a medicine of Rs.10/- and then he was cured. According to him, he had not heard about any injury to any patient due to wrong medicine given by the accused. Interestingly, however, it was not got elicited from him in the cross-examination as a plain statement of fact, but he was asked as to 'whether in his police statement, he had stated so' and he has answered that 'it was true that it was stated so'. Similarly, he also agreed that he had stated before the police that he had heard from people that 'if somebody takes treatment of Dr.Walapkar (accused), he used to recover at early stage'. This method of questioning was improper and contrary to the express bar of the provisions of section 162 of

the Code of Criminal Procedure (for short 'the Code'). Such questioning should not have been permitted by the learned Magistrate. The use of the statements made before the police would have been permissible only for contradicting the witness, but it has been used as substantive statement. Nevertheless, from the tenor of the evidence of this witness, it is clear that he had no grievance against the accused with regard to any deficiency in the treatment given by him. He also said that there was no medical facility in Gaotale and adjoining villages, and that except the accused, there was no other Doctor in that area.

12 Shashikant (PW 3) also says that in about 8 to 10 villages adjoining village Gaotale, except the accused, nobody was a Doctor, and that all the villagers of the villages used to come to the accused for treatment. According to him, he and his family members used to take treatment from the accused and used to get proper relief. Similar is the evidence of Vithoba (PW 4). However, in his case also, instead of obtaining evidence of the fact that he used to get relief from the treatment of Dr.Walapkar, and 'that nobody had suffered due to treatment given by Dr.Walakpar (accused)' by normal questioning, he was asked 'whether he had stated so before the police'. The Magistrate seems to be permitting such use of police statements to treat the facts stated in those statements as substantive evidence, in complete contravention of the ban imposed by section 162 of the Code. Anyway, apart from the evidence obtained in this manner, the witness has otherwise also said the accused a good Doctor and giving good treatment.

13 The evidence of PSI Umbarkar (PW 5) is important. According to him, when he made preliminary inquiry into the matter, the accused produced three certificates before him. These three certificates were produced before the Magistrate, and form a part of the record, though, for some strange reason, they were not exhibited. Umbarkar concluded from the reply received by him from Municipal Council to his communication that Dr.Walapkar was making illegal use of the terms “DR” and “BAMS”. The opinion received from the Municipal Council was tendered in evidence, marked and exhibited. In the cross-examination, he said that he had received complaints against four Doctors, but case had been lodged only against the present accused and one Dr.Sane. Interestingly, he said that ‘he could not assign any reason as to why he did not file any cases against the other two Doctors – one Karandikar and one Kondvilkar’. This is shocking because in the opinion of the Municipal Council, these two persons fulfilled the necessary conditions and were entitled to practice. In spite of this position, Umbarkar does not answer that ‘the inquiries did not reveal that they had committed any offence and therefore, I did not file any cases against them’, but instead says that ‘he could not assign any reason why he had not filed any cases against them’. He admitted that the accused had disclosed to him that he had been working as a compounder for 10 years at the hospital of Dr.Suresh Panchal, and also that he had obtained BAMS degree. He also admitted that the statement of the accused about his degree is correct. The evidence of this witness indicates that he was deposing against the accused, most reluctantly. By securing an admission from him as to what accused stated to him, the statement of accused is sought to be got treated as if it was

evidence of the facts stated in the statement. Such a use of the statement was clearly impermissible.

14 The evidence indicates that the accused was indeed practicing in medicine. He was entertaining patients, examining them, prescribing medicines, charging fees to them and treating them. *The question is whether he was entitled to do so.*

15 Mr.Pendse, the learned counsel for the accused submitted that there was no charge of an offence punishable under section 33 against the accused. He, therefore, submitted that the accused, therefore, could not be convicting of an offence punishable under section 33 of the MMP Act. As regards the charge of an offence punishable under section 36 of the MMP Act is concerned, according to Mr. Pendse, since there was nothing to indicate that the degree of BAMS obtained by the accused, was bogus, or that the degree certificate produced by him before PSI Umbarkar was a false or fabricated document, the accused cannot be said to have committed an offence punishable under section 36 of the IPC. Mr. Pendse also contended that there was no element of cheating and, therefore, the acquittal with respect to the charge of an attempt to commit cheating is also proper. Mr.Pendse submitted that the accused was actually helping the Society by providing medical treatment and aid to poor villagers where no medical facilities or Doctors were available for treating them. He submitted that the evidence shows that none of the persons who took treatment from the accused had any grievance about his treatment and that this fact ought to be taken into consideration by this Court while dealing with an Appeal against acquittal.

16 As aforesaid, a perusal of the evidence adduced during the trial leaves no manner of doubt that the accused was practicing medicine. It would be necessary therefore, to see what is the opinion of the Municipal Council with respect to the eligibility or entitlement of the accused to practice medicine. The relevant part of the communication sent by the Municipal Council reads as under :-

“All the three certificates listed below are not recognized in Maharashtra. (a) B.A.M.S from Kala Sanskruti Sahitya Ayurved Vidyapeeth, Meerut; (b) Registration No: 13396 from Bihar Electro Homeopathic Medicine Board, Patna; (c)Registration certificate No.12734 from Council of Allopathic and Ayurvedic Medical Studies, Delhi. He is neither registered as medical practitioner in Maharashtra nor is he entitled for registration. Action can be taken against him under Sections 33 and 36 of the Maharashtra Medical Practitioners' Act, 1961 for illegally practising medicine and for using the abbreviations “DR” and “B.A.M.S” with his name”.

17 According to Mr.Pendse, this is not sufficient to show that the accused was not entitled to practice medicine. His contention is that the report of the Municipal Council does not say that the degree 'BAMS' as mentioned in the certificate which the

accused was possessing, is bogus. According to him, since a person who is a holder of the degree of BAMS is entitled to get himself registered as a medical practitioner, the accused cannot be said to have committed any offence by using the abbreviation 'DR' and putting the words 'BAMS' against his name on the board on his dispensary.

18 It is not possible to accept this contention for a number of reasons. First of all, the degree of BAMS is said to have been obtained by the accused from Kala Sanskruti Sahityayurved. In this certificate also, only abbreviations are used and what for they stand, has not at all been mentioned. True, this degree certificate is not alleged to be forged or bogus and perhaps there was scope and occasion to examine the genuineness of this certificate which for reasons best known to him, was not done by the Investigating Officer. Anyway, the degree 'BAMS' which would qualify a person to practice medicine is the degree known as 'Bachelor of Ayurvedic Medicine and Surgery'. Whether the 'BAMS' in the certificate of the accused stands for 'Bachelor of Ayurvedic Medicine and Surgery', is itself not clear. The MMP Act contains a schedule prescribing qualifications, the possession of which entitles a person to registration. The degree of the accused even if not alleged to be, or proved to be, false or bogus, is not included in the schedule. It is, therefore, clear that the accused was not entitled to have his name entered into the relevant registers mentioned in clauses (i), (ii), (iii) and (iv) of section (1) of section 33, and as such, there was no question of his being entitled to practice medicine. Therefore, clearly, the accused had contravened the provisions of section 33 of the MMP Act.

19 Now, whether, when the accused was not charged of that offence during trial, he can now be held guilty of the said offence, and can be convicted therefor, may be discussed a little later.

20 Coming to the applicability of section 36 of the MMP Act, Mr.Pendse contended that since the certificates held by the accused – and more particularly the certificate showing him to be the holder of the degree 'BAMS' – were not found to be false, fabricated or forged, the prosecution had failed to prove the ingredients of the offence punishable under sub-section (2) of the said section. There is substance in the contention of Mr.Pendse that it was for the prosecution to positively establish that the degree was false, or that it was such, that it did not provide the necessary qualification to practice a system of medicine. However, the failure of the Investigating Agency or the prosecution to conclusively establish the same is not fatal in this case. It is because the First Information Report was lodged after carrying out preliminary inquiry. During this inquiry, admittedly, the accused had appeared before PSI Umbarkar, and had given to him the documents certificates, on the basis of which he claimed to be entitled to practice. None of these were found to be recognized for enabling the accused to get registered as a medical practitioner in Maharashtra. Section 36 prohibits adding of such title, description, letters or abbreviations, implying that a person holds a degree, diploma, licence, certificate or any other like award *as his qualification to practise any system of medicine*, unless such person actually hold such degree, diploma etc. **and** such degree, diploma

is recognized as stated in sub-section (1) of section 35 of the MMP Act.

21 Here, the degree 'BAMS' which the accused claims he holds, is not shown to be a qualification to practise a system of medicine. Even otherwise, the accused was adding to his name the words 'DR'. Mr.Pendse contended that the words 'DR' do not necessarily imply that the person who adds these words to his name holds a degree, diploma etc. as his qualification to practise a system of medicine. I find no force in this contention. It is evident that the accused was actually running a dispensary and practising medicine. Three of his patients have have been examined as the witnesses for the prosecution. The abbreviation 'DR' was used on the board that was displayed on the dispensary of the accused. These words, therefore, clearly implied that he possessed the necessary qualification to practice a system of medicine. Thus, clearly, there are contravention of the provisions of section 36 of the MMP Act by the accused.

22 So far as the accusation of the accused having attempted to cheat is concerned, the same, however, was not satisfactorily established. The accused was treating villagers who did not apparently bother for any precise qualification or any particular system of medical treatment and simply wanted to be cured of the ailment. There is no evidence that anybody was deceived by any action of the accused, and that but for such deception, such person might not have taken the treatment from the accused. The acquittal of the accused with respect to the said charge, appears to be proper.

23 I have examined the judgment delivered by the Magistrate to understand the reasoning behind the order of acquittal of the accused in respect of an offence punishable under section 36 of the MMP Act as passed by him. The Magistrate observed that the prosecution had failed to prove that there was prohibition against the accused to use the word “DR” and “BAMS” after his name because the accused was holding the degree which was recognized in another part of India. This observation about the degree being recognized in another part of India does not seem to be proper or correct, but since the prosecution had also failed to obtain direct evidence in that regard, the matter may be left at that. However, that the accused was entitled to add the abbreviation 'DR' before his name, cannot be accepted at all. As observed, the same implied that the accused possessed qualifications to practise medicine. No person can practise medicine unless he is registered with the Medical Council or any other appropriate Council mentioned in section 33 of the MMP Act. Clearly, therefore, the accused was not entitled to make the use of word 'DR' by adding the same before his name and by doing so, he has violated the provisions of section 36 of the MMP Act.

24 He is therefore, liable to be convicted of the said offence.

25 As already observed, the evidence also establishes that the accused had committed the offence punishable under section 33 of the MMP Act also; and the only point is whether he can now be convicted of the said offence in spite of the fact that during the

trial, the charge of the said offence was not framed at all against him.

26 I have carefully considered the matter.

27 The offences under section 33 and 36 are punishable with Rigorous Imprisonment for a term which may extend to five years and three years respectively. Both these sections provide for a minimum punishment of Imprisonment i.e. Imprisonment for a term not less than two years with respect to the offence under section 33, and Rigorous Imprisonment for a term not less than one year with respect to the offence punishable under section 33 of the MMP Act. *However, the learned counsel for the appellant as also the learned APP failed to point out that when the offences were committed by the appellant, the punishment prescribed for these two offences was only of fine, and as such it was noticed by the Court only after the arguments were concluded.* Sub-section (2) of section 33 as it stood before its substitution by the Maharashtra Medical Practitioners (Amendment) Act, 1992 (Maharashtra Act No.XXI of 1993) provided for a maximum punishment of a fine of 500 Rupees for the first offence. Similarly, sub-section (2) of section 36 also, at the material time, provided for a punishment of fine which could be maximum 500 Rupees. The case, therefore, was a 'summons case' as defined in clause (w) of section 2 of the Code, and it could even be tried summarily. In such cases, it would not be necessary to frame a formal charge. Though the learned Magistrate after the conclusion of the trial framed a charge on an erroneous belief about the legal position, the fact remains that in the present case there was no necessity of framing any charge. All

that was necessary was that the particulars of the offences and substance thereof was needed to be stated and explained to the accused. In this case, the particulars of offence that were explained to the accused as can be seen from the record (Exhibit-6) were as follows :-

“That you prior to 8.7.88 for two years were doing medical practice under pretext that you have passed B.A.M.S Degree. In fact, you are not having any qualification of Doctor and you are not a Registered Medical Practitioner. Thereby you have committed offence under section 36 of Maharashtra Medical Practitioner Act 1961”.

It is clear that though there is no mention of section 33 of the MMP Act, presumably because it was not mentioned in the police report, actually, the particulars of offence punishable under section 33 were also explained to the accused. The accused had clearly understood the same. During the trial, witnesses were examined who claimed to be the patients of the accused, and stated about the medical practise of the accused. In his examination under section 313 of the Code, the circumstance that he was practicing and that, he had not been registered with any authority which would entitle him to practise medicine, was put to the accused. The accused, therefore, fully knew the nature of case that he had to meet, and was not, in any way, misled by the failure to mention section 33 of the MMP Act, while explaining the substance of the accusation to him. At the cost of repetition, it may be observed

that the ingredients of the said offence were mentioned while stating and explaining the particulars of the offence and the substance of accusation to him.

28 Under the circumstances, when the evidence clearly shows that the accused has been guilty of an offence punishable under section 33 of the MMP Act also, apart from the offence punishable under section 36 of the said Act, he cannot escape conviction and punishment of the said offence merely because during the trial, a mention of section 33 of the MMP Act was not made while explaining the particulars of offences and substance of accusation to him. There is no question of any failure of justice being occasioned by convicting the accused now of an offence punishable under section 33 of the MMP Act also.

29 Clearly, that the accused had committed offences punishable under section 33 and 36 of the MMP Act was satisfactorily proved. The impugned judgment of acquittal as delivered by the Magistrate, is patently incorrect and not in accordance with law.

30 The same is therefore, required to be interfered with in the interest of justice.

31 However, the offences at the material time were punishable only with fine. In view of the Article 20(1) of the Constitution of India, accused cannot be subjected to a greater penalty than that might have been inflicted under the law in force at the time of the commission of the offence. Moreover, there

appears to be substance in the contention of Mr.Pendse that there was no complaint from anyone about any harm being caused due to the treatment given by the accused. Mr.Pendse submitted that the accused had stopped practise after the present Appeal against the acquittal was filed.

32 In the peculiar facts and circumstances of the case, and particularly because that the offences in question were, at the material time, punishable only with fine, was not noticed by anyone – the counsel for the accused, the learned APP and also the Court – it was thought fit to call for a report from the Probation Officer. Such report has been received, and I have taken the same into consideration. Though the offences at the material time were punishable only with fine, and though the accused cannot be awarded a greater punishment than what was prescribed for the offences at that time, the said offences are today much more serious. Minimum sentences of Imprisonment have been provided for the said offences. After considering all the relevant aspects of the matter, instead of imposing any punishment upon the accused *which could only be a sentence of fine*, it is thought appropriate to deal with the accused in accordance with the provisions of the Probation of Offenders Act. It would indeed be expedient and in the interest of justice to do so.

33 In the result, Appeal is allowed.

34 The impugned judgment and order of acquittal is set aside.

35 The respondent is convicted of offences punishable under sections 33 and 36 of the Maharashtra Medical Practitioners Act, 1961.

 However, instead of sentencing him at once to any punishment, it is directed that he be released on his executing a bond in the sum of Rs.10,000/-, without surety, for a period of 3 years, to appear and receive the sentence when called upon during this period, and in the meantime, to keep the peace and be of good behaviour, as contemplated u/s.4 of the Probation of Offenders Act read with section 11 thereof.

36 The respondent shall be placed under the supervision of the Probation Officer during this period for three years.

37 The bond to be executed before the trial court within a period of six weeks from today.

38 The Appeal is disposed of in the aforesaid terms.

(ABHAY M.THIPSAY, J)