

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.982 OF 2017**

Shaikh Akhtar Hussain .. Applicant

Vs

The Assistant Law Officer,
L-Ward, Municipal Corporation of
Greater Mumbai & Anr. .. Respondents

...

Mr. S.G. Kudle for the Applicant.

Mr. Abhijit Kadam i/b Kunal Waghmare for Respondent No.1.

Mr. H.J. Dedhia, A.P.P. for the State.

CORAM: SMT. BHARATI DANGRE, J.

DATED : 09TH OCTOBER, 2019.

P.C:-

1. The Applicant who was granted a licence under Section 394 of the Mumbai Municipal Corporation Act is aggrieved by the institution of proceedings in the Court of Metropolitan Magistrate, 42nd Court, Shindewadi, Dadar, Mumbai filed under Section 394(1)(b) read with Section 471 of the Mumbai Municipal Corporation Act. Perusal of the fact revealed that the licence was

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issued in the name of the father of the Applicant viz. Ziaaulha Mohmed Salim at Shop No.26, Nehru Nagar, S.G. Barve Marg, Kurla (E), Mumbai – 24. This licence authorised him for manufacturing, parching and packing of charcoal. The said licence was valid from 01st October, 2017 to 30th September, 2018.

2. On the basis of the inspection carried out in the said premises on 22nd June, 2017, it was noted that the Applicant being owner of the said shop has kept charcoal other than for domestic use in the area of 20x6 feet, without licence from the Municipal Corporation of Greater Mumbai and, therefore, there is a violation of Section 394(1)(b) read with Section 471 of the Mumbai Municipal Corporation Act.

3. The said observation appears to be apparently erroneous in the light of the valid and subsisting licence issued on 11th September, 2017.

4. Learned counsel for the Corporation justifies the action on the ground that the said licence was in respect of Shop No.26

unmindful of the fact that it is the same Applicant who has been shifted to the transit accommodation under the Slum Rehabilitation Scheme where he continued to do the same business.

5. In the circumstances, the impugned action instituted against the Applicant deserves to be set aside. The Criminal Application is allowed in terms of prayer clause (a). No order as to costs.

(SMT. BHARATI DANGRE, J.)