

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, AT NAGPUR.**

**Criminal Revision Application No. 14 of 2018**

Sitabai w/o Ganeshrao Kove  
Aged about 56 Years,  
Occupation – Labour  
R/o Sindhivihiri Tah-Karanja (Gh)  
District Wardha.

... Applicant

... Versus ...

State of Maharashtra through  
Police Station Karanja (Gh)  
Tah-Karanja District Wardha

... Non-Applicant

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Mr. K. J. Topale, Advocate for the applicant  
Mr. M. K. Pathan, APP for the State/non-applicant  
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**CORAM : ROHIT B. DEO, J.**  
**DATED : 04-10-2021**

**ORAL JUDGMENT**

The applicant Sitabai Ganeshrao Kove is convicted under Section 65(e) of the Maharashtra Prohibition Act vide judgment dated 19-4-2016 rendered by the learned Judicial Magistrate First Class, Karanja (Ghadge) in S.C.C. 105/2015 and is sentenced to suffer rigorous imprisonment for three years and to payment of fine of Rs. 25,000/- and in default of payment of fine to suffer simple imprisonment for one

month. Smt. Sitabai preferred Criminal Appeal 78/2016 seeking to overcome the conviction, but in vain. Learned Additional Sessions Judge, Wardha was pleased to confirm the judgment of conviction and dismissed the criminal appeal by judgment dated 8-12-2017.

2. Considering the limited scope of revisional jurisdiction, the learned counsel for the accused has rightly focused on certain grave and glaring misdirection in appreciating the evidence on record, without inviting me to re-appreciate the evidence as if acting as an appellate Court. The learned counsel points out that the very seizure of the alleged *mahua* is extremely doubtful. PW. 1 Arun Bhajipale is the Assistant Sub Inspector of Police who received the secret information, pursuant to which, Sitabai's house was allegedly raided. Arun Bhajipale states that from Sitabai's possession, 10 litres *mahua* liquor was recovered. PW. 2 Ravindra Kumre is a panch to the seizure panchanama, Exhibit 4 and his version is that 7 litres *mahua* liquor was seized. Police Constable Manish Kamble, who is PW. 3 has given a totally different figure. Manish Kamble has deposed that in the house of Sitabai, 20 litres *mahua* liquor was seized from plastic can.

3. While I am not expected to re-appreciate the evidence, the gross inconsistencies affect the very credibility of the prosecution case and could not have been brushed under the carpet by the Courts below. I am satisfied that the gross misdirection, has caused, serious miscarriage of justice. Judgments impugned are unsustainable in law and are quashed.

4. Sitabai is acquitted of the offence punishable under Section 65(e) of the Maharashtra Prohibition Act.

5. Fine paid, if any, be refunded.

6. Her bail bond shall stand discharged.

**JUDGE**

*wasnik*