

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.443 OF 2016

Rahul S/o Dayaram Mujalde,
Age-19 years, Occu:Cleaner,
R/o-Baravi, Tq-Rajpur,
Dist-Badwani (MP)

**...APPELLANT
(Orig. Accused)**

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr. R.S. Shinde Advocate h/f. M. N.L. Choudhari Advocate for
Appellant.
Mrs. V.S. Choudhari, A.P.P. for Respondent - State.
...

**CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 28th JUNE, 2023

JUDGMENT [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Appeal has been filed by the original accused to challenge his conviction in Sessions Case No.21 of 2016 on 13th July 2016 by the learned Additional Sessions Judge, Dhule after

holding him guilty of committing offence under Section 302, 201 of the Indian Penal Code.

2. Present accused himself is the informant who lodged the First Information Report (for short "the FIR") on 26th November 2015 with Mohadi Police Station, Dhule. He has informed that 15 days prior to the FIR he joined the services on the truck bearing No.MH-18-AA-0696 owned by one Rahulseth Agrawal. Deceased driver Rakesh Badole was also serving with him with the same employer. He as well as deceased loaded wheat for delivering it at Solapur from Palsud in the said truck. They had started 6 to 7 days prior to the FIR. Their truck experienced problem in the starter at Sendhawa and therefore, they had informed the employer about the same. Thereafter, they got the truck repaired and started their journey again. Via Shirpur they came near Dhule but again in Laling Ghat section their truck experienced problem. Again the employer was contacted. The mechanic was called at the spot. Crane was also called and the engine of the truck was shifted for repairing, on 25th November 2015, in the morning. Engine was taken to Dhule and therefore, around 4.00 p.m. they both had prepared food near the truck. Around 8.00 p.m. they finished their dinner and put the seat

from the truck on the ground and went asleep while talking. Thereafter another truck belonging to same employer i.e. MH-18-AA-5396 driven by one Jitendra having cleaner Birju came there and they shouted and therefore, the accused woke up. He asked them as to what has happened. He saw that driver Rakesh Badole was lying on the ground besides him and blood was oozing from his head. They all got frightened and therefore ran towards the other truck. They climbed the other truck and along with Jitendra and Birju, informant went to the police station. Thereafter he lodged the FIR against unknown person stating that said unknown person has committed murder of Rakesh Badole.

3. On the basis of said FIR, offence came to be registered and then panchnama of the spot was executed. The dead body was taken to postmortem after drawing inquest panchnama. The statements of the witnesses came to be recorded. It transpired during the investigation that in fact informant - accused himself has committed the offence and therefore, he came to be arrested. During custody he gave memorandum and discovered tomy from the truck as the murder weapon. It was seized under

panchnama. After completion of the investigation, charge-sheet came to be filed.

4. After the committal of the case, trial was conducted. Prosecution has examined in all seven witnesses to bring home guilt of the accused. After considering the evidence on record and hearing both the sides, the learned Additional Sessions Judge, Dhule held that the offence under Section 302 and 201 of the Indian Penal Code has been proved against the appellant. The appellant was sentenced to suffer imprisonment for life and pay fine of Rs.5000/-, in default to suffer simple imprisonment for three months, for committing offence under Section 302 of the Indian Penal Code. Further, he has been sentenced to suffer rigorous imprisonment for three years and pay fine of Rs.4000/-, in default to suffer simple imprisonment for two months, for committing offence under Section 201 of the Indian Penal Code. This conviction is challenged in the present Appeal.

5. Heard learned Advocate Mr. R.S. Shinde holding for learned Advocate Mr. N.L. Choudhari appearing for the appellant and learned APP Mrs. Choudhari appearing for the respondent – State. Perused the record.

6. It has been vehemently submitted on behalf of the appellant that the case is based on the circumstantial evidence and therefore all the parameters to prove those circumstances ought to have been proved by the prosecution and each circumstance ought to have indicated that accused is the only person who could have committed the said crime. Here the prosecution has not led appropriate evidence. PW-1 Birju is the cleaner on the other truck owned by the same employer and PW-2 Jitendra is the driver on the said truck. If we consider the testimony of both these witnesses, it can be gathered that when they reached the spot, they saw the truck belonging to their employer is halted and therefore they went to talk to Rakesh. They found that there was nobody in the cabin of the truck and therefore PW-1 Birju went to the back side of the truck. He saw the blood stains and dead body of Rakesh in the light of mobile battery and he started shouting as, murder, murder. He went to his truck and then he says that accused came after them. He says that accused was accompanying the deceased on the truck which deceased was driving. He then says that after he had started the truck and the accused was accompanying them, they reached Toll Plaza and after getting information about the

nearby police station, they went to police station where accused gave the FIR. PW-2 Jagdish rather says that PW-1 Birju was ahead of him but then PW-2 Jitendra had also seen dead body of Rakesh and there were blood stains. He also says that accused had come from the back side and stopped them. That means both these witnesses have not stated that they had come at the fag end of the act of murder and had seen the accused assaulting the deceased. The defence that has been raised is that the accused was sleeping in the cabin and the deceased was sleeping near the tyres of the truck. He was totally unaware about the incident. He came to know about the incident when PW-1 and PW-2 shouted. Therefore, their testimony cannot be considered on the touchstone of the 'last seen together theory'. Mere presence of the accused at the spot will not cast any burden under Section 106 of the Indian Evidence Act on the accused to explain the circumstances. The learned trial Judge erred in invoking Section 106 of the Indian Evidence Act and holding the accused guilty.

7. It has been further argued that the next piece of evidence which connects the accused to the crime is the testimony of PW-4 Lahu Sonawane. He is the panch witness to the discovery

panchnama under Section 27 of the Indian Evidence Act. However, if we consider the cross-examination of this witness, it can be certainly said that he was not able to state the time when he had visited the police station. In the cross-examination he says that nothing was written in his presence prior to the visit to the spot. Police asked the accused to open the door of the cabin and then accused had entered the cabin and police followed him. PW-4 himself had not climbed the truck and therefore, it cannot be said that the discovery of weapon was in his presence. At the said place the accused and the police persons were the only persons present when the article i.e. murder weapon was discovered. The testimony of PW-6 Dr. Ajit Pathak would show that he has conducted the autopsy, however, he has not given the time of death. There was no evidence against the appellant to come to a conclusion that the accused has committed the said crime. Further, as regards the circumstantial evidence is concerned, the prosecution will have to prove the motive. Here no substantive evidence is led to come to a conclusion that there was any motive for the present appellant to commit the said crime, because he had got the employment only 15 days prior to the FIR. As the learned trial Judge has not appreciated the

evidence properly, interference is required and the appellant deserves to be acquitted.

8. Per contra, the learned APP supported the reasons given by the learned trial Judge while convicting the accused. It is submitted that testimony of PW-1 and PW-2 would show that accused is not denying the fact that when they both went to the spot at that time deceased was lying in pool of blood and accused came towards them from their back side. The presence of the accused at the said place is not denied, rather he went along with them to the police station. Under the said circumstance, the burden was on the accused to prove as to how deceased received those injuries. The said burden is cast on him by the provisions of Section 106 of the Indian Evidence Act which he has failed to discharge. The murder weapon has been discovered by the accused and in order to prove the same, prosecution has examined PW-4 Lahu Sonawane, the panch witness and also PW-5 PSI Mahendra, who is the investigating officer. Evidence of PW-6 Dr. Ajit Pathak, the autopsy doctor would show that there were severe injuries to the head of the deceased, as a result of which he died instantaneously. The evidence proved the guilt of the accused beyond reasonable

doubt and in order to screen himself from punishment, the accused has given a misleading FIR. Therefore, the conviction for the offence punishable under Section 302 and 201 of the Indian Penal Code is perfectly legal. It does not require any interference.

9. At the outset, it is to be noted that the accused himself is the informant in this case and had lodged FIR Exhibit-26. The said FIR has been got proved through PW-5 PSI Mahendra. The said FIR was definitely admissible, in a sense that it was not in the form of inculpatory. In other words, it cannot be said that Exhibit-26 is a confessional FIR. In the said FIR Exhibit-26, informant has alleged some unknown person as murderer, but he was certain on the point that there is murder of Rakesh Badole. Still when the autopsy has been done and the autopsy doctor has been examined, his evidence is required to be considered.

10. PW-6 Dr. Ajit Pathak is one of the autopsy doctor. He has deposed that they had found fracture to the nasal bone and blood was oozing from mouth and nostrils. They had found 7 external injuries on the dead body, which are as under:-

"1. Incise lacerated wound over scalp extending from left side of forehead up to occipital region reddish size 16 cm x 3 cm x cavity deep with underlying bone fracture consistent with the external injury. Dura torn. Brain matter oozing out the exterior, Lower end of injury at the level of forehead situated .5 cm lateral to mid-line and 2.5 cm above left eyebrow margins of the wound clean cut hair bulb cut and bleeding present,

2. Graze abrasion over postero lateral aspect of right forearm situated middle 1/3 of 3 cm x 2 cm reddish,

3. Graze abrasion 3 cm above and lateral to injury No.2 3 cm x 0.5 cm reddish,

4. Contusion over left forearm postero lateral aspect middle 1/3 3 cm x 3 cm reddish with close fracture of underlying radius bone,

5. Abrasion over right lower leg, medial aspect near ankle joint above medial malleous 1 cm x .5 cm reddish,

6. Open fracture of cranial bone corresponding to injury No.1 Col. 17,

7. Close fracture of right radius bone at middle 1/3".

11. PW-6 Dr. Ajit Pathak says that all the injuries were ante mortem and fresh. Probable weapon was heavy, hard and blunt object. The death might have occurred within 24 hours from the start of the postmortem. As per Exhibit-28 postmortem report, the autopsy begun at 10.00 a.m. of 26th November 2015 and concluded by 11.30 a.m. Further, they had found three internal injuries on the dead body as follows:-

"1. under scalp hematoma over left fronto parietal region and right parietal region,

2. Skull committed fracture of left fronto parietal bone extending up to right parietal bone as linear fracture 5 cm length with depressed fracture of piece of left fronto parietal bone,

3. Committed fracture of both anterior cranial fossa involving cribriform plate extending and involving foramen magnum".

12. PW-6 Dr. Ajit Pathak, therefore, opines that the probable cause of death is "head injury (unnatural)". In the cross-examination, he has admitted that if a heavy stone is thrown on the person then the injuries noted by them in postmortem are possible. Further, he says that if heavy blow is given then there may be compound fracture. But then he voluntarily states that it will depend on the force that is used for the assault. He denied the suggestion that the injuries noted by him are not possible due to assault by muddemal article -3 rod. Article-3 is in fact tomy. Thus, it is to be noted that the cross-examination of PW-6 Dr. Ajit Pathak was not sufficient to discard the opinion that the death was homicidal in nature. We therefore, hold that death of Rakesh Badole was homicidal and the prosecution has proved it beyond reasonable doubt.

13. Now the crucial question would come, as to whether the accused was the author of the crime. Prosecution has relied on the circumstantial evidence only as there is no direct evidence. In order to satisfy the circumstantial evidence beyond reasonable doubt, the said evidence led by the prosecution should go through the tests laid down in the various authorities by the Hon'ble Supreme Court. We can lay our hands on the decision in ***Sharad Birdhichand Sarda vs. State of Maharashtra*** reported in **(1984) 4 SCC 116**, wherein it has been held that -

"153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established :

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in Shivaji Sahabao Bobade vs. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 Cri. L.J. 1783] where the observations were made : [SCC para 19, p.807 : SCC (Cri) p. 1047]

"Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say,

they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence."

14. The evidence is, therefore, now required to be tested on the above said principles.

15. As aforesaid, the testimony of PW-1 Birju and PW-2 Jitendra would show that Birju was the person ahead of Jitendra to go near the truck driven by deceased Rakesh when they saw that the said truck is halted and as the said truck also belongs to their employer and they were knowing deceased as well as accused, they went near the truck. PW-1 Birju says that when he saw in the cabin, he did not find anybody and therefore, he went to the back side of the truck, saw dead body of Rakesh and the blood oozed from his injuries, in the light of mobile battery and

after shouting he immediately rushed towards his own truck. He then says that after then the accused came. The general statement was made by him that the accused was accompanying with Rakesh in the truck. That means he was giving the said position when they left and not the situation at the spot at that moment. Same is the story given by PW-2 Jitendra. He says that accused came from their back side and stopped them. It has not been extracted by the prosecution from them, as to from which side the accused had come or whether they had asked accused from which side accused was coming. Both of them have stated that before they could reach police station they had asked accused what had happened, then accused had told them that he was in sleep and does not know anything. That means, said explanation is consistent to the contents of the FIR Exhibit-26.

16. In the cross-examination of PW-1 Birju, he has stated that as it was dark, he had put on the mobile torch. He saw that the dead body and the blood stains were near the left front tyre of the truck. The truck had halted at the extreme left of the road. The seat which they used to sleep, was near the left front tyre of the truck and the dead body of Rakesh was on the said seat. When he saw the dead body, he shouted but he had not seen, at

that time, whether anybody was present in the cabin. When he reached near the truck, within some minutes accused came running. In the cross-examination, he reiterated that the accused disclosed to them that he was in sleep and he do not know what has happened. Jitendra had given call to the owner and informed the incident and in that conversation, on phone, even accused had talked with the employer. This rather shows that the defence of the accused was consistent that he was in sleep and had no knowledge as to what has happened to Rakesh. Even if we take that the accused was present somewhere in or around the truck, yet we cannot presume that he should know what happened with Rakesh.

17. In order to apply the principles under Section 106 of the Indian Evidence Act, the prosecution should discharge the primary burden cast on it and then only the burden can be shifted on the shoulders of the accused. In order to take recourse to the theory of "last seen together", the prosecution should have produced evidence to prove that deceased was seen alive in the company of the accused just prior to the death or the time gap between witnessing them alive together and the death of the deceased should be so small that it can be inferred that

nobody else would have come at the spot to commit the murder. Here PW-1 Birju and PW-2 Jitendra have arrived at the spot after the death. Prosecution has not examined anybody who had seen the deceased alive in the company of the accused prior to the death of Rakesh. Even for that purpose, the prosecution should have brought on record the approximate time of death. At one place PW-6 Dr. Ajit, the autopsy doctor says that all the injuries were ante mortem and fresh, yet in the another breath he states that the death might have occurred within 24 hours from the start of the postmortem. At the cost of repetition, we would say that the autopsy had started at 10.00 a.m. of 26th November 2015 and completed by 11.30 a.m. Therefore, the time of death within 24 hours would go back to 10 a.m. of 25th November 2015, whereas as per the prosecution story, the incident has occurred between 8.00 p.m. to 10.15 p.m. of 25th November 2015. PW-2 Jitendra has stated that he had reached Lalit Ghat section around 10.15 p.m. Therefore, the time gap that has come on record also does not lead us to lay our hands on the "last seen theory". The charge or the prosecution story taking 8.00 p.m. as the starting point of duration for the incident appears to have been taken from the FIR Exhibit-26, lodged by

the accused himself. Therefore, the FIR cannot be used only for some facts and then it can be discarded for the other fact i.e. the explanation given by the accused that he do not know what happened with Rakesh. We may rely on the decisions in **Gargi v. State of Haryana; (2019) 9 SCC 738** and **Shivaji Chintappa Patil v. State of Maharashtra; (2021) 3 SCALE 384**. In these decisions as well as reiterating it in **Md.Anowar Hussain v. State of Assam; 2022 SCC OnLine SC 1399** Hon'ble Supreme Court has held that non-explanation or falsity in explanation to be given under Section 106 of the Evidence Act by itself cannot be a ground of conviction. In **Gargi** (supra), Hon'ble Supreme Court held that provision of Section 106 of the Evidence Act does not absolve the prosecution of its primary burden. It has been observed, *"In so far as the 'last seen theory' is concerned, there is no doubt the appellant being none other than the wife of the deceased was seen with. However, such companionship of the deceased and the appellant, by itself, does not mean that a presumption of guilt of the appellant is to be drawn. The trial Court and the High Court have proceeded on the assumption that Section 106 of the Evidence Act directly operates against appellant. In our view, such an approach has*

also not been free from error where it was omitted to be considered that Section 106 of the Evidence Act does not absolve the prosecution of its primary burden."

18. Further, the Hon'ble Supreme Court in ***State Of West Bengal vs Mir Mohammad Omar & Others, (2000) 8 SCC 382*** and in ***Shambhu Nath Mehra vs. The State of Ajmer, 1956 SCR 199***, pointed out that the rule in Section 106 of the Indian Evidence Act would apply when the facts are especially within the knowledge of the accused and it would be impossible, or disproportionately difficult, for the prosecution to establish facts which are especially within the knowledge of the accused.

19. Further, in ***State of Rajasthan vs. Kashiram, 2006 (12) SCC 254***, it has been held that:-

" The principle is well settled. The provisions of Section 106 of the Evidence Act itself are unambiguous and categoric in laying down that when any fact is especially within the knowledge of a person, the burden of proving that fact is upon him. Thus, if a person is last seen with the deceased, he must offer an explanation as to how and when he parted company. He must furnish an explanation which appears to the Court to be probable and satisfactory. If he does so he must be held to have discharged his burden. If he fails to offer an explanation on the basis of facts within his special knowledge, he fails to discharge the burden cast upon him by Section 106 of the Evidence Act. In a case

resting on circumstantial evidence if the accused fails to offer a reasonable explanation in discharge of the burden placed on him, that itself provides an additional link in the chain of circumstances proved against him. Section 106 does not shift the burden of proof in a criminal trial, which is always upon the prosecution. It lays down the rule that when the accused does not throw any light upon facts which are specially within his knowledge and which could not support any theory or hypothesis compatible with his innocence, the Court can consider his failure to adduce any explanation, as an additional link which completes the chain."

20. Here, in the present case, as aforesaid, the circumstances itself were not adduced by the prosecution. At the cost of repetition, we would say that PW-1 and PW-2 are the witnesses who had reached the spot after the incident and within few minutes the accused had reached behind them. This cannot be taken as the last segment of the chain of the circumstances. When the earlier events have not been proved by leading cogent evidence, we hold that the burden never shifted on the accused to prove anything which was within his knowledge. Even if for the sake of arguments we take that said burden was shifted on the accused, he has given an explanation that as he was sleeping he is unaware about the said fact as to what happened with Rakesh. Whether to accept the said explanation or not, is required to be judicially tested. When even before the law was

set into motion, the accused gave same explanation to PW-1 and PW-2 and also to his employer (who has not been examined by the prosecution) and also after going to the police station he maintained the same, we find that there is substance in the stand taken by the accused.

21. Another fact to be noted is that if the accused would have done the crime, he would not have waited at the said spot. There was no attempt on his part to flee away. Rather he goes to the police station and then lodges the report. The investigating officer has not collected further evidence to prove that the said explanation that was given by the accused in his FIR and to PW-1 and PW-2 was false. No doubt the prosecution is also relying on the discovery panchnama under Section 27 of the Indian Evidence Act. But there is no attempt on the part of the investigating officer to collect the evidence to see as to who was the person who had lastly seen the deceased alive in the company of the accused and therefore, we do not agree with the findings given by the learned trial Court in this respect.

22. Another fact to be noted from the testimony of PW-1 and PW-2 is that they have not explained as to whether they had

seen the blood stains on the person of the accused. They had sufficient opportunity to observe the accused as they had taken him till police station and also they were with him at the relevant time. Even PW-5 PSI Mahendra, who had reduced the FIR Exhibit-26 into writing as given by the accused, has not stated as to whether there were blood stains on the clothes of the accused at that time. In the entire record we have not seen the panchnama of seizure of clothes of accused. There is only seizure panchnama of clothes of deceased at Exhibit-31 which was admitted by the accused under Section 294 of the Code of Criminal Procedure. It is to be noted that the said panchnama neither produced nor got exhibited by examining the panchas or PW-7 API Ashok Pawar, the investigating officer, yet we could see that the clothes of the accused were sent for chemical analysis. The carrier has not been examined. C.A. Report Exhibit-18 says that article-3 was the full shirt which was cut, article-4 was full jeans pant which was cut and article-5 was sleeved banian which was cut and if we consider panchnama Exhibit-31, it appears that these clothes were on the person of the deceased. Article-6, as per the C.A. Report Exhibit-18, is the full jeans pant and Article-7 is full shirt. If we consider that those articles were of

the accused, then the report does not show that there were blood stains on article-6 and 7. Therefore, it is unimaginable that even if by standing at the reasonable distance from the person who is sleeping and then to him tomy has been assaulted with force, blood oozed but would not have fallen on the clothes of the assailant. This angle appears to have not been considered by the learned trial Judge.

23. The other witness is the formal witness to prove the spot panchnama, but the spot is not disputed by the accused.

24. Testimony of PW-4 Lahu Sonawane has been relied on by the prosecution to prove the discovery panchnama. In his examination-in-chief, he has stated that accused had disclosed that he would discover the tomy which he had kept in the truck. In fact the inadmissible portion has been recorded by the learned Additional Sessions Judge, Dhule, which has to be discarded. PW-4 Lahu Sonawane further says that on 28th November 2015, they proceeded to the place by police jeep and that time truck was still halted at the same place. Both the doors of the cabin were closed. Those were opened by the accused from the mini door and then accused entered the cabin and

produced the tomy from the cabin. Thereafter it was seized by the police. In the cross-examination he has stated that nothing was written before him prior to the visit to the spot. Therefore, it cast doubt on the writing that was alleged to have been done which amounts to memorandum i.e. Exhibit-23. He has further stated that the police asked the accused to open the door of the cabin. Accordingly, accused opened the door. Accused entered the cabin and police followed him. But this witness says that he had not entered the cabin. The actual seizure appears to have not been seen by this witness. Another fact which has not been explained by the investigating officer PW-7 API Ashok Pawar, as to what precautions he had taken to secure the safety of the said truck when he had drawn panchnama of the spot on 26th November 2015. Further, he has not stated as to why the truck was not searched and examined from inside also at the time of drawing spot panchnama on 26th November 2015. With whom the keys of the truck were between 26th November 2015 to 28th November 2015 has also not come on record. Place to keep the tomy appears to be the usual place where any driver would keep it. Therefore, when the safety of the truck was not ensured by the police, for the reasons best known to them, it cannot be said

that it is a discovery within the meaning of Section 27 of the Indian Evidence Act. Neither PW-4 Nor PW-7 specifically told that there were blood stains on the tomy when it was seized. It has been only described as 'blackish reddish' but word 'stain' has not been used. But the C.A. Report then says that human blood was detected on the tomy. The learned trial Judge has not considered that such discovery cannot be taken as incriminating when it cannot be termed as discovery under Section 27 of the Indian Evidence Act.

25. For the aforesaid reasons, though the murder was committed, yet the accused cannot be said to be the author of the crime and the said fact has not been proved beyond reasonable doubt. As the evidence has not been properly appreciated, the interference is required and therefore the Appeal should succeed. Hence the following order:-

ORDER

- (i) Appeal stands allowed.
- (ii) The Judgment and order dated 13/07/2016 passed by the learned Additional Sessions Judge, Dhule, in Sessions Case No.

21/2016 holding the appellant – Rahul Dayaram Mujalde guilty under Sections 302 and 201 of the Indian Penal Code stands set aside.

(iii) The appellant stands acquitted for the offences punishable under Sections 302 and 201 of the Indian Penal Code.

(iv) He be set at liberty if not required in any other case, the fine amount paid / deposited by the accused be refunded after stipulated period.

(v) It is clarified that there is no change in the order of disposal of muddemal.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE