

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 756 OF 2006

Municipal Corporation of Greater Mumbai,
through Senior Legal Assistant Shri Kadam,
having his office at Mahapalika Bhavan, Fort,
Mumbai – 400 001.

... Appellant

Versus

1. Chapsi R. Shah
having his office at M/s. Lazree,
362/A, Bedekar Sadan, N. C. Kelkar Road,
Dadar, Mumbai – 400 028.

2. State of Maharashtra

... Respondents

**WITH
CRIMINAL APPEAL NO. 753 OF 2006**

Municipal Corporation of Greater Mumbai,
through Senior Legal Assistant Shri Kadam,
having his office at Mahapalika Bhavan, Fort,
Mumbai – 400 001.

... Appellant

Versus

1. Champs R. Shah
having their office at M/s. Lazaree,
364-A, Bedekar Sadan, N. C. Kelkar Road,
Dadar, Mumbai – 400 028.

2. State of Maharashtra

... Respondents

**WITH
CRIMINAL APPEAL NO. 754 OF 2006**

Municipal Corporation of Greater Mumbai,
through Senior Legal Assistant Shri Kadam,
having his office at Mahapalika Bhavan, Fort,
Mumbai – 400 001. ... Appellant

Versus

1. Shri L. D. Shah
2. Smt. Bharati Shah
3. D. L. Shah
having their office at M/s. Rangoli,
5, Laxmi Building, 381 N. C. Kelkar Road,
Dadar, Mumbai – 400 028.
4. State of Maharashtra ... Respondents

**WITH
CRIMINAL APPEAL NO. 755 OF 2006**

Municipal Corporation of Greater Mumbai,
through Senior Legal Assistant Shri Kadam,
having his office at Mahapalika Bhavan, Fort,
Mumbai – 400 001. ... Appellant

Versus

1. Dharmasi R. Shah
having their office at M/s. Lazaree,
364-A, Bedekar Sadan, N. C. Kelkar Road,
Dadar, Mumbai – 400 028.
2. State of Maharashtra ... Respondents

**WITH
CRIMINAL APPEAL NO. 757 OF 2006**

Municipal Corporation of Greater Mumbai,
through Senior Legal Assistant Shri Kadam,
having his office at Mahapalika Bhavan, Fort,
Mumbai – 400 001. ... Appellant

Versus

1. L. A. Shah
having his office at M/s. Rangoli Laxmi,
355, N. C. Kelkar Road, Dadar,
Mumbai – 400 028.
2. State of Maharashtra ... Respondents

**WITH
CRIMINAL APPEAL NO. 758 OF 2006**

Municipal Corporation of Greater Mumbai,
through Senior Legal Assistant Shri Kadam,
having his office at Mahapalika Bhavan, Fort,
Mumbai – 400 001. ... Appellant

Versus

1. Shri L. D. Shah
2. Smt. Bharati Shah
3. A. S. Shah
having their office at M/s. Rangoli,
5, Laxmi Building, 381, N. C. Kelkar Road,
Dadar, Mumbai – 400 028.
4. State of Maharashtra ... Respondents

Ms. Madhuri More for the Appellant-MCGM.
Mr. H. J. Dedhia, APP for the Respondent-State.

CORAM : R. N. LADDHA, J.

RESERVED ON : 13 OCTOBER 2023
PRONOUNCED ON : 4 DECEMBER 2023

Judgment :

Heard learned counsel for the appellant-Corporation and the learned Additional Public Prosecutor for the respondent-State.

2. These criminal appeals are filed by the Municipal Corporation of Greater Mumbai against the respondents/original accused.

3. The appeals in question are related to a common issue and are being decided by a common judgment and order. The defence of the accused, as per the record, is that the signboard displaying the name of the shop does not qualify as an advertisement. Therefore, the display of the signboard does not amount to an offence within the meaning of Section 328A of the Bombay Municipal Corporation Act (for short 'BMC Act') and is

not punishable under Section 471 of the BMC Act. The complainant has alleged that the accused have violated Section 328A of the BMC Act for advertising their shops through illuminated glow signboards without obtaining prior permission from the competent authority of the appellant-Corporation.

4. Upon perusal of the records it is revealed that the alleged offence is not detailed except for a one-line allegation that a particular size of illuminated glow signboard is displayed outside the shop. The only word mentioned was 'Lazaree'/ 'Rangoli'. The appellant-Corporation failed to provide detailed facts and explain how the signboard erected by the accused amounts to an advertisement. There is no indication of any appeal to the customer or the general public to visit the shop. The signboard may be intended to indicate the location of their business place and may not have the intention of inviting customers, as no business activity was mentioned on these signboards. There is no evidence to suggest how the signboard qualifies as an advertisement. If the appellant-Corporation claims that these disputed signboards have commercial value and are intended for advertising purposes, it is incumbent upon the Corporation to provide details in the complaint and explain how it amounts to an advertisement.

5. All these aspects are also highlighted in the case of *ICICI Bank v/s. Municipal Corporation of Greater Bombay*¹ and *Bajpe Shivram Shetty v/s. State of Maharashtra & Ors.*²

6. In such circumstances, the trial Court, in my considered opinion, rightly found the accused/respondents not guilty of the offence for which they were charged. As a result, these appeals fail and are dismissed accordingly.

R. N. LADDHA, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN DHARMENDER
PRITHIANI
Date: 2023.12.04
14:38:20 +0530

1 (2005) 6 SCC 404.

2 2014 SCC OnLine Bom 1243.