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# State of Maharashtra & Anr. vs. Madhukar Narayan Mardikar

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SHREYASH GUPTA<sup>1</sup>

## ABSTRACT

*As the Constitution guarantees every woman the right to privacy, no one can invade it on their wish. She is equally entitled to protect her person if there is an attempt to violate it against her wish and has the equal protection of laws. Therefore, merely because she is a woman of easy virtue, her evidence cannot be thrown overboard, and the only caution is to be maintained. The accused had worked as an Inspector of Police at the Bhiwandi Police Station in Thana District, Maharashtra. One night, alone in his uniform, he visited a woman's home at night and asked to have sex with her. Due to her screams and cries of rejection, her husband and other neighbors gathered outside and called the police station. When the defendant arrived at the scene, he accused the woman of abusing him and ordered her to be taken to the police station. The case State Of Maharashtra & anr. Vs. Madhukar Narayan Mardikar Supreme Court of India AIR 1991 SC 207, (1991) 1 SCC 57 used the Women's Privacy Protection Act to protect itself from allegations of violations of its rights. It concerns the probative value of facts in criminal proceedings, and the possibility of arriving at evidentiary corroboration depending on the circumstances.*

## I. INTRODUCTION

**Petitioner:** State of Maharashtra & anr.

**Respondent:** Madhukar Narayan Mardikar

**Date of Judgment:** 23 October, 1990

**Bench:** Hon'ble Justice K J Shetty, J.; Ahmadi, J.

The case used the Women's Privacy Protection Act to protect itself from allegations of violations of its rights. It concerns the probative value of facts in criminal proceedings, and the possibility of arriving at evidentiary corroboration depending on the circumstances.

## II. FACTS OF THE CASE

The accused had worked as an Inspector of Police at the Bhiwandi Police Station in Thana District, Maharashtra. One night, alone in his uniform, he visited a woman's home at night and

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asked to have sex with her. Due to her screams and cries of rejection, her husband and other neighbors gathered outside and called the police station. When the defendant arrived at the scene, he accused the woman of abusing him and ordered her to be taken to the police station. The woman filed a written complaint, a preliminary investigation was launched and, after hearing testimony, an indictment was prepared to lay charges of misconduct against the Inspector firstly for intending to have forceful and illicit intercourse with the woman and secondly, for fabricating documents to falsify that a prohibition raid was conducted in that area around the same time to defend himself. An internal departmental investigation was also launched, a detailed report was made and the accused was ordered to be fired. The Inspector-General of Police agreed with the investigators' review of the report and issued a statement to the defendant explaining the reasons for his actions. As a result, the inspector general ordered the firing. The defendants then appealed, which was partially granted. Distressed by this, he wrote a petition to the Supreme Court. The department judge overturned the controversial deportation order and ruled that the charges against the petition were not guilty of any crime. Maharashtra was outraged by the order and filed a special leave application (SLP) in the Supreme Court under Section 136 of the Constitution.

### **III. LEGAL ISSUES**

Is the Supreme Court's order to reinstate the police contrary to the order of the Appellate Body?

### **IV. ARGUMENTS ADVANCED**

According to the respondent, the woman was involved in the illegal sale of alcohol. Acting on this information, he conducted a search of her dwelling. During the ensuing Departmental Enquiry, it was revealed that the woman was engaged in an extramarital affair, which she admitted to. Although no evidence was found within her home, alcohol was discovered near her hut. It was suggested that she fabricated a complaint against the respondent in order to avoid legal repercussions. It was also posited that someone with such a dubious history could resort to any means, and therefore, could not be considered trustworthy.

### **V. JUDGMENT**

The High Court's order of removal from service passed by the appellate authority was rendered unsustainable by the Court's decision to allow the appeal and set aside the previous order. The Inquiry Officer failed to comprehend that the woman would have any reason or motive to falsely implicate the respondent, as the respondent had contended. Furthermore, no incriminating evidence was found at the woman's residence by the police. Therefore, the respondent's claims

do not provide a valid reason to believe that he was falsely implicated in this case. The woman's testimony was not substantiated in significant aspects by independent evidence available on record.

## **VI. RATIO DECIDENDI**

Upon examining the evidence presented during the inquiry, it can be concluded that the facts as presented by the respondent are not substantiated. This leads to two potential outcomes.

- It was discovered that the respondent was unable to use the police jeep until approximately 8:15 in the evening. Additionally, it was observed that the subordinates were not present to accompany the respondent during the raid, as the respondent had already departed by then.
- When the subordinates reached the scene of occurrence, a crowd gathered the woman's house with the respondent standing at some distance all alone.

According to the evidence, it is revealed that upon the jeeps return to the Police Station from the supposed raid, it did not possess any items that were prohibited.

Based on the evidence presented, the Inquiry Officer was justified in accepting the woman's account and concluding that the entries recorded in the Station Diary were falsified in an attempt to conceal the wrongdoings of the accused. The Court encounters difficulty in supporting the High Court's ruling that, despite the available evidence, it was unreasonable to arrive at a verdict of culpability.

In its ruling, the High Court placed excessive emphasis on the Constable's statement, using it as grounds to determine that the failure to provide the original notebooks was detrimental to the defense. The High Court also noted that the woman had a history of unchaste behavior, leading to the conclusion that her accusations, given their lack of corroboration, could not be used to implicate a Government Official.

As the Constitution guarantees every woman the right to privacy, no one can invade it on their wish. She is equally entitled to protect her person if there is an attempt to violate it against her wish and has the equal protection of laws. Therefore, merely because she is a woman of easy virtue, her evidence cannot be thrown overboard, and the only caution is to be maintained.

## **VII. CONCLUSION**

Following principles can be derived from this case-

- The right to privacy enables an individual to protect themselves in an instance of a violation of the same.
- Equal protection of the law is granted to women.
- Evidence provided by a woman cannot be dismissed on her mere unchastely and entire facts and circumstances are to be taken into consideration.

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