

**Joseph Simon Govre Vs. the State**

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**SooperKanoon Citation :** [sooperkanoon.com/340094](http://sooperkanoon.com/340094)

**Court :** Mumbai

**Decided On :** Mar-20-1951

**Reported in :** AIR1951Bom416; (1951)53BOMLR680; ILR1951Bom700

**Judge :** Bavdekar and ;Chainani, JJ.

**Acts :** Bombay Probation of Offenders Act, 1938 - Sections 4 and 5; [Bombay Prohibition Act, 1949](#)

**Appeal No. :** Criminal Appeal No. 278 of 1951

**Appellant :** Joseph Simon Govre

**Respondent :** The State

**Advocate for Def. :** H.M. Choksi, Government Pleader

**Advocate for Pet/Ap. :** S.H. Sheth, Adv.

**Judgement :**

**Chainani, J.**

1. In this case the accused has been convicted under Section 66(b) and Section 85(2) of the Bombay Prohibition Act and sentenced to three months' rigorous imprisonment and a fine of Rs. 500 under Section 66(b) and one month's rigorous imprisonment and a fine of Rs. 100 under Section 85(2) of the Act.

2. The charge against the accused was that on September 2, 1950, at about 11-80 p. m. he went near the house of witness Sutari and abused him under the influence of drink.

3. On merits we are satisfied that the conviction of the accused is correct. It has, however, been urged on his behalf that as this is the first offence committed by the accused, he should be given the benefit of the Probation of Offenders Act. Section 92 of the Bombay Prohibition Act seems to contemplate that only persons, who have been convicted of the offence of consuming liquor, should be released on probation of good conduct. But Sections 4 and 5 of the Probation of Offenders Act specifically state that the provisions of these sections are to apply, notwithstanding anything contained in any enactment for the time being in force. There is no provision in the Bombay Prohibition Act, which provides that the Probation of Offenders Act should not be used in the case of offences falling under the Bombay Prohibition Act. We are, therefore, of the opinion that action can be taken under Sections 4 and 5 of the Bombay Probation of Offenders Act even in the case of offences, other than that of consuming liquor, punishable under the Bombay Prohibition Act.

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