

**In Re: Maruti Vithu**

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**SooperKanoon Citation :** [sooperkanoon.com/347439](http://sooperkanoon.com/347439)

**Court :** Mumbai

**Decided On :** Dec-08-1924

**Reported in :** AIR1925Bom247; (1925)27BOMLR350; 87Ind.Cas.596

**Judge :** Marten and ;Pratt, JJ.

**Appeal No. :** Criminal Reference No. 86 of 1924

**Appellant :** In Re: Maruti Vithu

**Judgement :**

**Pratt, J.**

1. The complainant filed a complaint July 2, 1.924, against two accused of various compound able offences. On July 15, 1924, the District Magistrate in revision called for the papers, under Section 435 of the Criminal Procedure Code, with a view to withdraw the case from the First Class Magistrate and refer it for trial to another Magistrate. As a matter of fact he did so order on August 15. But in the meanwhile on July 31, the Magistrate recorded a composition of the offence and acquitted the accused under Section 345, Criminal Procedure Code.

2. The District Magistrate refers the case to us on the ground that the jurisdiction of the First Class Magistrate Mr. Deshpande ceased after the order had been made calling for the papers. We think the contention of the District Magistrate is correct. When the order was made calling for the record and proceedings with a

view to withdrawing the case and transferring it to another Magistrate the case was no longer on the file of the Magistrate and his jurisdiction was suspended. We, therefore, think that the order of acquittal made on July 31 is void and of no effect.

3. We, therefore, return the record and proceedings with a direction that the case should now proceed before the Court of the Sub-Divisional Magistrate at Nasik to whom it was referred by the District Magistrate. This is of course without prejudice to the rights of the parties to effect a fresh composition before that Magistrate.

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