

**State of M.P. Vs. Harsh Gupta**

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**SooperKanoon Citation :** [sooperkanoon.com/671043](http://sooperkanoon.com/671043)

**Court :** Supreme Court of India

**Decided On :** Dec-12-1997

**Reported in :** 1999CriLJ5011; (1998)8SCC630

**Judge :** M.K. Mukharji and; K.T. Thomas, JJ.

**Acts :** Code of Criminal Procedure (CrPC) - Sections 482; Madhya Pradesh Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969 - Sections 5C, 12, 12A and 16; [Indian Forest Act, 1927](#) - Sections 26, 41, 42 and 69

**Appeal No. :** Criminal Appeal No. 1196 of 1997 Arising out of SLP (Crl.) No. 2105 of 1996

**Appellant :** State of M.P.

**Respondent :** Harsh Gupta

**Judgement :**

ORDER

1. Leave granted.

2. On a complaint lodged by the Divisional Forest Officer, Morena under Sections 5-C, 12, 12-A and 16 of the Madhya Pradesh Van Upaj (Vyapar Viniyaman) Adhiniyam, 1969 and Sections 26 and 42 read with Section 41 of the [Indian Forest Act, 1927](#) (hereinafter referred to as 'the Act'), the respondent was summoned by a Judicial Magistrate to stand trial. Assailing his prosecution he moved an

application under Section 482 of the Cr PC which was allowed by a Single Judge of the High Court. Hence this appeal at the instance of the State of Madhya Pradesh.

3. It is rather surprising that at a stage when the only question to be considered was whether the complaint and its accompaniments disclosed any or all of the offences alleged against the respondent, the learned Judge not only went into a detailed discussion about his defence but recorded a conclusive finding that he was not guilty of the offences alleged against him. More surprising is that the learned Judge ignored the provisions of Section 69 of the Act which expressly raises a statutory presumption against a person arraigned that the forest produce recovered from him was a property of the Government, until the contrary is proved; and needless to say, the question of proof of the contrary can be answered after evidence is led.

4. For the foregoing discussion, we allow this appeal, set aside the impugned judgment and direct the Magistrate to proceed with the case in accordance with law, without in any way being influenced by any of the observations made by the High Court in the impugned order.