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**(1966) 07 GUJ CK 0006**  
**In the Gujarat High Court**

Ranchhodbhai Somabhai

APPELLANT

Vs

J.D. Nagarwala, I.G.P.

RESPONDENT

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**Date of Decision :** 01-07-1966

**Acts Referred:**

Bombay Police (Punishments and Appeals) Rules, 1956 — Rule 17, 17(1)  
Bombay Police Act, 1951 — Section 25, 25(2), 27, 27  
Constitution of India, 1950 — Article 226, 227, 311

**Citation :** (1966) 7 GLR 1091

**Hon'ble Judges :** N.M. Miabhoy, C.J.;J.B. Mehta, J

**Bench :** Division Bench

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## Judgement

N.M. Miabhoy, C.J.—Petitioner, Ranchhodbhai Somabhai, has filed this petition under Articles 226 and 227 read with Article 311 of the Constitution of India. He challenges in this petition a notice, dated 21st September 1963, issued by respondent who was, at the relevant time, the Inspector General of Police, Gujarat State, calling upon petitioner to show cause why the order dated 26th February 1963, passed by his subordinate, the D. I. G., reducing petitioner from the post of a II grade Head Constable to that of a III grade Head Constable, for a period of six months, should not be set aside and why petitioner should not be dismissed from police service.

2. The facts leading up to the present petition may at first be briefly stated. Petitioner was, at the relevant time, an armed Head Constable, II grade, posted at Bhalej Police Station, Kaira District. In the month of December 1961, petitioner was charge-sheeted by the D. Section P., Kaira District, on the allegation that petitioner had accepted a sum of Rs. 20/-by way of bribe from three persons on 22nd June 1961. By the same order, the D. Section P. appointed the Sub-Divisional Police Officer, Petlad, as the enquiry officer. That officer opined that the charge was not proved and submitted the papers to the D. Section P. The latter, however, differed from the finding recorded by the enquiry officer and, tentatively, came to the conclusion that petitioner was guilty of the charge of corruption and, on that basis, he issued a show cause notice on 13th May 1962

to petitioner, calling upon him to show cause why he should not be reduced to the post of III grade Head Constable for a period of six months. Petitioner filed his reply, but, on 5th June 1962, the D. Section P. found petitioner guilty and reduced him from his post of II grade Head Constable to that of the III grade Head Constable for a period of six months. Petitioner filed an appeal to the D. I. G. P. That officer, by his order dated 26th February 1963, held that the charge was not proved and ordered reinstatement of petitioner as II grade Head Constable. Thereafter, on 21st September 1963, the I. G. P., respondent, issued the impugned show cause notice. It is to challenge that notice that the present petition has been filed.

3. The main relief, which petitioner prays, is that of a declaration that Rule 17 (wrongly mentioned as Rule 18 in the petition) of the Bombay Police (Punishments and Appeals) Rules, 1956, (hereinafter called the rules) is ultra vires the provisions contained in Article 20, Clause (2) of the Constitution and/or is ultra vires the provisions contained in Article 311 of the Constitution. Petitioner also prays for a writ of prohibition and/or a writ, direction or order of a similar nature, restraining respondent from taking the proposed action and an injunction restraining respondent from taking further action under the impugned notice. Shri Imdad Ali, the successor-in-office of respondent, has filed an affidavit in reply, in which, whilst admitting broadly the facts on which the petition is based, he has contested the legal contentions and submissions contained in the petition.

4. At the time of the hearing of the petition, Mr. V. J. Desai, who appeared for Mr. M. R. Barot, learned advocate for petitioner, formulated the following five submissions for decision in this Court:

(1) that Rule 17 of the rules is ultra vires secs. 25, 5(b) and 27 of the Bombay Police Act, 1951 (hereinafter called the Act);

(2) that Rule 17 is ultra vires the provisions contained in Clause (2) of Article 20 of the Constitution;

(3) that Rule 17 is bad and invalid, as it is arbitrary inasmuch as no time limit is fixed by that rule for taking action in revision by the I. G. P.;

(4) that even if Rule 17 is not ultra vires secs. 25, 5(b) and 27 in any case, that part of the rule, which empowers the I. G. P. to revise an order of acquittal, is ultra vires Section 25, Sub-section (2), Clause (c) of the Act; and

(5) that on a proper construction of the rules, revisional powers cannot be invoked in the case of an acquittal recorded in proceedings undertaken u/s 25 aforesaid.

5. The first three submissions came up for our consideration in Special Civil Applications Nos. 824 of 1962, 967 of 1962 and 61 of 1963, the judgment in which was delivered by my learned brother Mehta J. yesterday. *Kishanchand v. Imdad Ali*, now reported at VII G. L. R 1065. For the reasons recorded in that judgment, we have come to the conclusion that the aforesaid three submissions

have no validity. Learned advocates who were heard in the present petition, therefore, conceded that those three submissions no longer survive for consideration and deserve to be rejected so far as this Court is concerned. Therefore, the only submissions which survive for consideration are submissions Nos. (4) and (5) aforesaid. In both those submissions, Mr. I. M. Nanavati and Mr. B. G. Thakore were also interested inasmuch as they rely upon the same submissions in support of the petitions-Special Civil Applications Nos. 573 of 1963 and 487 of 1964 respectively. Therefore, those two learned advocates were also heard in support of those two submissions. In fact, those two submissions were, with the consent of the other learned advocates, formulated by Mr. Nanavati and the principal argument was addressed by him on those two submissions, the other learned advocates supplementing Mr. Nanavati's argument on them. We have given our best consideration to all that learned advocates had to say in support of the aforesaid submissions. We have come to the conclusion that none of the submissions has any merit and both of them deserve to be rejected.

6. Now, in order to understand the fourth submission, it is necessary to quote the relevant part of Sub-rule (1) of Rule 17. It is in the following terms:

17. (1) The Inspector-General of Police may, of his own motion or otherwise, call for and examine the record of any case in which an order has been made by an authority subordinate to him in the exercise of any power conferred on such authority by these rules and in which an appeal lies or any case arising under these rules in which an order of acquittal (whether an original order, order in appeal or order in revision) has been made by such authority and may....

The rule then proceeds to state the various kinds of orders which may be made by the Inspector General of Police whilst exercising the power conferred on him under the aforesaid part of Sub-rule (1). There are also a proviso and Sub-rule (2). They do not require to be quoted as nothing turns on them. It is quite clear from Sub-rule (1) aforesaid that, it confers power upon the Inspector General of Police in respect of two kinds of cases, firstly, a case in which an order has been passed by an authority subordinate to the I. G. P. and in which an appeal lies. Secondly, it deals with a kind of a case "arising under these rules in which an order of acquittal has been made. " In the judgment delivered by my learned brother yesterday in Special Civil Applications Nos. 824 of 1962, 967 of 1962 and 61 of 1963, *Kishanchand v. ImdadAli*, supra we were concerned with the validity of that part of the rule which concerned the first kind of case directly and we have considered the validity of only that part of the rule in the context of an appealable order passed by an authority subordinate to the I. G. P. It is for this reason that, in the present submission, the validity of the rule has been challenged only in the context of an order of acquittal which is the matter dealt with by the second part of Sub-rule (1) which deals with the second kind of case aforesaid. Now, the validity of this second part of the rule is challenged on the ground that it is inconsistent with Section 25, Sub-section (2), Clause (c) of the

Act. Therefore, it is necessary to read the relevant parts of Section 25:

25. (1) The State Government or any officer authorised by Sub-section (2) in that behalf may suspend, reduce, dismiss or remove (an Inspector or) any member of the subordinate ranks of the Police Force whom he shall think cruel, perverse, remiss or negligent in the discharge of his duty or unfit for the same, and may fine to an amount not exceeding one month's pay, any member of the subordinate ranks of the Police Force, who is guilty of any breach of discipline or misconduct or any act rendering him unfit for the discharge of his duty, which does not require his suspension or dismissal.

(2)(a) The Inspector-General, the Commissioner and the Deputy Inspector-General shall have authority to punish (an Inspector or) any member of the subordinate ranks under Sub-section (1). A District Superintendent shall have the like authority in respect of any Police officer subordinate to him below the grade of Inspector (and may suspend an Inspector who is subordinate to him pending inquiry into a complaint against such Inspector and until an order of the Inspector-General or Deputy Inspector-General can be obtained).

(b)

(bb)

(c) The exercise of any power conferred by this sub-section shall be subject always to such rules and orders as may be made by the State Government in that behalf. (3).

It is not disputed that Section 25 confers punitive powers upon the State Government. In the present petition, we are not concerned with those powers of the Government. It is also not disputed that, Sub-section (1) also confers punitive powers upon "any officer authorised by Sub-section (2) in that behalf." The authorities mentioned in Sub-section (2) are (1) The Inspector General, (2) a Commissioner and (3) a Deputy Inspector General, all of whom have been given authority to punish an Inspector or any member of the subordinate ranks. According to Clause (16) of Section 2, the expression "subordinate ranks" means members of the police force below the rank of the Inspector. In addition to this, a District Superintendent of Police and some other police officers mentioned in Clauses (b) and (bb) have also been given punitive powers by Sub-section (2). It is in regard to the authority of the officers mentioned in Sub-section (2) that we are directly concerned in the present petition. The punishments which the aforesaid authorities are empowered to inflict are (1) suspension, (2) reduction, (3) dismissal, (4) removal, and (5) fine. They are entitled to inflict these punishments for the delinquencies mentioned in Sub-section (1). Then comes Clause (c) of Sub-section (2), on the basis of which the fourth submission is founded. Clause (c) makes the exercise of punitive authority of the aforesaid officers subject "to such rules and orders as may be made by the State Government in that behalf." The contention of learned advocates is that, the authority of the State Government to subject the exercise of the authority of the

aforesaid officers extends to only punitive powers conferred by Section 25 and does not extend to the authority of those officers to pass orders of acquittal in regard to delinquencies, on the establishment of which the punitive powers can be exercised. It is the correctness of this submission that requires to be decided in the present petition. The rules are made by the State Government. Those rules are made under powers conferred on the State Government, not only by Clause (c) of Sub-section (2) of Section 25, but also under the power conferred upon the State Government by Section 5, Clause (b) of the Act. Therefore, in order to succeed, petitioners have not merely to show that the impugned part of the rule is not in conformity with Clause (c) of Sub-section (2) of Section 25, but they must also show that that impugned part is inconsistent with Clause (b) of Section 5 of the Act. It is noteworthy that, the submission as formulated does not challenge the validity of the rule on the ground that it is inconsistent with Clause (b) of Section 5 of the Act. But, apart from this, in our judgment, the submission as formulated suffers from a fallacy and cannot be upheld. The whole argument is based on the contention that, under Clause (c) of Sub-section (2) of Section 25, the State Government can subject only the exercise of authority in regard to punishments and not in regard to an enquiry which must precede before the occasion for the infliction of punishment arises. Mr. Nanavati's submission is that, Clause (c) deals with exercise of power conferred by Sub-section (2). He submits that, that power is a punitive power-the power to inflict a punishment. Therefore, he contends that, the rule-making power of the Government can be brought to bear only on the power to inflict punishment and nothing more. Now, in our judgment, the authority to inflict punishment which is conferred on the aforesaid authorities by Sub-section (2) cannot work in vacuum. That authority must necessarily be exercised in relation to the delinquencies in regard to which the authorities are given the power to inflict punishments. Mr. Nanavati could not deny that, before the power to inflict a punishment can be exercised, the authorities concerned must enquire into a set of circumstances with a view to determine whether the delinquencies or any of them mentioned in Sub-section (1) has or has not taken place. It is only when the delinquency is determined that the power to punish can be invoked. Therefore, the exercise of the aforesaid authority implies the exercise of the power to determine the establishment or otherwise of a delinquency. But, contends Mr. Nanavati, that, though this may be so, it is only when the delinquency is established that the power to punish can be, exercised. He does not agree with the proposition that, in the aforesaid enquiry, if the delinquency is not established, then, the order which the authority passes of exonerating the delinquent / i. e. an order of acquittal, would be an order which the authority would pass in exercise of the aforesaid power. Mr. Thakore puts the same idea in a different way. He gives the analogy of the orders which are passed by High Courts on references made to them by Sessions Judges under sees. 438 and 439 of the Criminal Procedure Code. He says that, when references are not accepted, the High Court does not make any order on them and it is only when references are accepted that some orders are passed. He contends that, in the first kind of orders, the High Court

does not exercise any authority and it is only when the High Court passes the second kind of orders that the revisional authority of the High Court is exercised. In our judgment, reading Clause (c) broadly in the context of Sub-section (1), it is not possible to give effect to these nice refinements. The broad feature of Clause (c) read in the light of the authority conferred by Sub-section (1) is, as already stated, the determination of the delinquency and the exercise of the power of punishment in case the delinquency is established. In our judgment, this means that, when a delinquency is being determined, the authority is not acting *de hors* Clause (c), but is exercising the power which is conferred upon him under Clause (c). In our judgment, when the authority reaches the conclusion that delinquency is not established, the authority is exercising the same power which he does when he reaches the conclusion that the delinquency is established. In our judgment, having regard to the context, the negative exercise cannot be divorced from the positive exercise and, in that view of the matter, in our judgment, we must come to the conclusion that, when an authority is reaching a conclusion that an officer should be exonerated, /i.e./ when he records an order of acquittal in regard to a charge, he must be taken to be exercising the authority which is conferred upon him by Sub-section (2). In that view of the matter, in our judgment, the Government has the power of subjecting that authority to its rule-making power under Clause (c) aforesaid. Just as the Government can deal by the rules framed under Clause (c) with the punitive powers of the officers, it has also got the power of subjecting the same power to the antecedent authority exercised by the authority in proceedings undertaken with a view to determine whether a punishment should or should not be inflicted. In that view of the matter, in our judgment, the fourth submission must be rejected.

7. The fifth submission is grounded on the expression "any case arising under these rules. " Mr. Nanavati's contention is that, in order that the Inspector General may exercise his revisional authority, it is necessary that the case in regard to which he exercises that power must arise "under the rules." Mr. Nanavati contended that, in his petition, the case does not arise "under the rules." According to Mr. Nanavati, a broad distinction must be made between a case arising under the statute and a case arising under the rules, and he contends that, it is only in the latter kind of case that the Inspector General of Police can exercise revisional authority. In the submission of all the learned advocates, the cases involved in all their petitions arise under the statute and not under the rules. Now, in order to understand and appreciate the aforesaid contention, it is necessary to read, in addition to the sections and the rules which we have mentioned, two more sections and a few more rules. Section 26 says that, when any of the aforesaid officers passes an order inflicting any of the five punishments, "he shall record such order or cause the same to be recorded, together with the reasons therefore and a note of the inquiry made in writing, under his signature. " Section 27 confers a right of appeal on a delinquent against any order passed "under Section 25 or the rules or orders thereunder".

Under that section, the appeal lies "to the State Government itself or to such officer as the State Government may by general or special order specify. " As already stated, the rules are made under Clause (c) of Sub-section (2) of Section 25 and Section 5(b) of the Act. The rules are made for regulating punishments of police officers of and below the rank of an Inspector of Police and appeals therefrom. Rule 2 states that no police officer to whom the rules apply shall be departmentally punished otherwise than in accordance with the provisions of the rules. Rule 3, Sub-rule (1), prescribes "without prejudice to the provisions of any law for the time being in force" six types of punishments. Of these, four types are to be found mentioned in Sub-section (1) of Section 25 and the other two, viz., (1) recovery from pay of any pecuniary loss caused to Government by negligence or breach of order, and (2) compulsory retirement, are not to be found in Sub-section (1) of sec 25. The punishments mentioned in Sub-section (1) of Section 25 may be described as statutory punishments and the other two may be described as rule-made punishments. In addition to these, in Sub-rule (2) of Rule 3, five more kinds of punishments are mentioned, all of which are, except the punishment of fine, not mentioned in Sub-section (1) of Section 25. The punishment of fine may be described as statutory punishment and the rest as rule-made punishments. Then, Rule 4 states that, no punishment mentioned in Sub-rule (1) of Rule 3 shall be imposed on any police officer "unless a departmental inquiry into his conduct is held and a note of the inquiry with the reasons for passing an order imposing the said punishment is made in writing under his signature. " Rule 6 confers a right upon a delinquent to prefer an appeal against an order in regard to a punishment mentioned in Sub-rule (1) of Rule 3 and two punishments mentioned in Sub-rule (2) thereof. The proviso states that, no second appeal shall lie under the rule against the appellate order passed in appeal. Rule 7 specifically states that, no appeal shall lie against an order inflicting the punishments mentioned in Clauses (i) to (iii) of Sub-rule (2) of Rule 3. Rule 9 prescribes the appellate authorities. Rule 15 mentions the duties of the appellate authority and his powers. Then comes Rule 17. That rule confers a power upon the Inspector General to call for and examine the record of any case, including a case arising under the rules in which an order of acquittal has been made. Rule 19 confers similar powers of revision on the immediate superior officer of an officer against non appealable orders of punishment passed by the latter, and confers upon him the same powers in regard to "such orders as the Inspector General has under Rule 17. Finally, there is Rule 18 which confers powers of revision on the State Government in regard to any case "in which an order including an order of acquittal (whether an original order, order in appeal or order in revision) has been made by an authority subordinate to it. " Now, the argument of learned advocates for petitioners is that, the only punishments which can be dealt with under the rules are the rule-made punishments and that, the statutory punishments cannot be dealt with under them. The contention is that, when an officer inflicts a statutory punishment, he does so under Sub-section (1) of Section 25. The contention is that, as a result, the consequences which follow are that, in regard to a case in which a statutory punishment is to

be inflicted, the procedure laid down in Section 26 will have to be followed and the delinquent will have a right of preferring an appeal u/s 27 direct. Mr. Nanavati says that, in regard to the statutory punishments, the obligation laid down in Section 26 and the right conferred by Section 27 cannot be deprived of by the rule-making authority. Therefore, the sequitur, according to learned advocates for petitioners, is that, it is only in regard to the rule-made punishments that the procedure laid down and the appeals prescribed require to be gone through and it is only in regard to these rule-made punishments that the expression "any case arising under these rules" used in Rule 17 can apply. We do not think we can agree with these series of argument. The scheme of the argument, in our judgment, is fallacious for more than one reason. In the first instance, in our judgment, the scheme runs counter to the whole scheme of the rules. If we read the rules as a whole, it is crystal clear that the rule-making authority has prohibited the punishment of police officers dealt with by rules otherwise than in accordance with the provisions of the rules. That means that, a police officer cannot be punished departmentally without undergoing the procedure laid down by the rules, whether the punishment is statutory or rule-made. Probably, it is for this reason that in Rule 3, all punishments, statutory and rule-made, have been mentioned. It is true that the punishments mentioned therein can be grouped together under the heading "statutory and rule-made." But that, in our judgment, does not help us in construing the expression "any case arising under these rules." When the rule-making authority describes the aforesaid punishments in Rule 3, it does not mention a case which is arising. In order that the aforesaid argument may be valid in so far as it takes within its purview Rule 3, Rule 3 itself must show that a case can arise thereunder. In our judgment, Rule 3 cannot be read in that way. From the impugned part of Rule 17, it is crystal clear that, rules are matrices from which cases are to arise and, in our judgment, the correct rule which throws light on the subject is not Rule 3, but that part of Rule 4 which says that no punishments shall be inflicted of the kinds mentioned therein unless a departmental enquiry is held. Therefore, in regard to the major punishments, the rules require a departmental enquiry to be instituted and this is in regard to both some of the statutory as well as some of the rule-made punishments. Therefore, in our judgment, when Rule 17 speaks of a case arising under the rules, it has reference to a proceeding of a departmental enquiry mentioned in Rule 4. This is further emphasized by Rule 2 which prohibits in specific terms the punishment of the officer concerned departmentally without resort to the rules. Having regard to the fact that, the aforesaid rules are made under both Section 25(2)(c) and Section 5(b), in our judgment, the conclusion is inevitable that the rule-making authority has enjoined, in regard to both the statutory and the rule-made punishments enumerated in Rule 4, that the scheme, which has been laid down by the rules, must be followed, and the scheme is that, first a departmental enquiry should be held, that if an order of punishment happens to be passed in such a departmental enquiry, then, the delinquent has a right of first appeal if the punishment which is inflicted is of the kind mentioned in Rule 6 and that a



second appeal does not lie from an appellate order passed in such appeal. The scheme is also quite clear that, in regard to non appealable orders, the immediate superior officer of the punishing authority has the power of revision, that the Inspector General of Police has similar power of revision in regard to cases in which appealable orders have been passed and also in regard to cases in which acquittal orders have been passed. In the latter kind of cases, the orders may have been passed either by the original authority or an appellate or a revisional authority and, in regard to all these cases the State Government has been given the widest power of revision. There is no justification for the argument that, a delinquent will be deprived of the right of appeal against any final order, original, appellate or revisional, which may happen to be passed under the aforesaid rules. The statutory right of appeal applies not only to an order passed under Sub-section (1) of Section 25, but also to an order passed "under the rules or orders" made u/s 25. It is true that the aforesaid scheme does not take Section 26 into gamut. It is true that if an action is taken and, having regard to the scheme as a whole, it is quite clear that, the only authority which can take action u/s 25, Sub-section (1), would be the State Government, then, the procedure laid down in Section 26 is to be followed. But, in regard to the other officers mentioned in Sub-section (2), it is quite clear that the procedure which is to be followed is that laid down in the rules with only this condition that the procedure should not be inconsistent with the one which is laid down in Section 26 and that is exactly what has been done under the rules. A major part of Rule 4 is a reproduction of Section 26. Under the aforesaid circumstances, in our judgment, when the officers mentioned in Sub-section (2) of Section 25 intend to exercise their punitive powers, they have necessarily to take resort first to the procedure laid down by the rules, and that procedure not only provides for original proceedings but also for appellate and revisional proceedings. From the aforesaid summary, it is quite clear that the rule-making authority intends to confer a right of appeal under the rules in addition to the statutory right provided for in Rule 27, and the fact that such right is conferred upon a delinquent cannot ex-fade be taken militating with the statutory right conferred by Section 27. Under the aforesaid circumstances, in our judgment, in the case in hand, it cannot be said that the appellate case in which an order of acquittal was passed was not a case arising under the rules. The appeal to the D.I.G. is one which is provided for in Rule 6, and we have no doubt whatsoever that it is under that rule that petitioner preferred an appeal to that officer. We cannot uphold the contention of Mr. Desai that, the appeal was u/s 27. We cannot do so, firstly because a first appeal has been specifically provided under the rules from an order passed in a departmental proceeding undertaken under those rules. In the second instance, if an appeal is to be preferred u/s 27, the appeal has necessarily to be to the State Government. It is true that the forum of appeal under that section can also be any other officer specified by a general or a special order of the State Government. But, there is no reason to think that the D. I. G. was an officer so specified by any general or special order of the Government. Mr. Nanavati contends that, Rule 9 is such a general or special

order. It is quite clear that the D. I. G. would be an appellate authority only under Rule 9. But we cannot uphold the argument that the D. I. G. was constituted such an authority u/s 27. We cannot do so because the rules do not say that they were made u/s 27. Those rules are made only in exercise of the powers conferred upon the State Government by Section 25, Sub-section (2), Clause (c), and Section 5(b) of the Act. Under the circumstances, in our judgment, the appellate acquittal order was passed by the D. I. G. under the rules, and Rule 17 applies in terms. It is true, as Mr. Nanavati says, that, in each case it will have to be found whether the case arose under the rules or de hors the rules. If action is taken directly under Sub-section (1) of Section 25 without resort to the rules, then, there is force in this contention. But, as already pointed out by us, having regard to Rule 2, if action is to be taken by an authority mentioned in Sub-section (2) of Section 25, it can only be done under the rules and not de hors the rules and that being the position, in our judgment, prima facie when action is taken which can be supported under the rules, the presumption would be that the action was taken under the rules and not de hors the rules. It would be a question for consideration, if action is taken by an officer de hors the rules, as to whether that action would be valid or not. We are not called upon to consider that question in the present petition. Mr. Nanavati also makes a distinction between the language used in Rule 17 and Rule 18 in support of his aforesaid argument. He contends that, whereas in Rule 17 the expression "any case" is qualified by the adjectival clause "arising under these rules" in Rule 18 the expression "any case" is not so qualified. In our judgment, there is no substance in this contention too. The difference in phraseology arises on account of the fact that, whereas the latter part of Rule 17 deals with the specific case of an order of acquittal, Rule 18 deals with all kinds of cases, including an order of acquittal. Then Mr. Nanavati lays emphasis upon the use of the expression "without prejudice of the provisions of any law for the time being in force" used in Sub-rule (1) of Rule 3. In our judgment, it is difficult to appreciate as to how the use of that expression can help anyone in determining the exact connotation of the expression "any case arising under these rules." It is crystal clear that, that expression has been used ex majore cautela to convey the idea that the punishments have been prescribed in the rules so as not to prejudice or affect the provisions of any law regarding the same kinds of punishments. Under the circumstances, we have come to the conclusion that the fifth submission also deserves to be rejected.

In view of our aforesaid conclusions, the petition deserves to be dismissed. Rule discharged. No order as to costs.