

**IN THE COURT OF THE JUDICIAL I CLASS MAGISTRATE -II,
(FOREST OFFENCES), PUNALUR.**

Present: Smt. Lynda Fletcher, Judicial First Class Magistrate.

Dated, the 8th day of June, 2024

ST.2577/2021

Complainant : The State of Kerala represented by the Sub Inspector
of Police, Punalur Police Station in Cr. No.990/15

Accused :A1- Sajeev, aged 29, s/o Rajendran, Rajani Nivas,
Paravattom Muri, Punalur Village

Offence : U/s.15 (c) r/w 63 of Abkari Act.

Order : Proceedings stopped u/s.258 Cr. PC.

Heard, perused the records and passed the following:-

ORDER

This is a case charge sheeted by S I of Police, Punalur Police Station in Cr. No.990/15, against the accused alleging offences punishable under section 15 (c) r/w 63 of Abkari Act.

2. This is a summons-case instituted on a police report. Summons is issued repeatedly to the accused from 02.07.15. The Sub Inspector of Police, Punalur Police Station has returned the summons with a report. In the report, the prosecution has expressed its inability despite its best efforts, to secure the presence of the accused in this case before the Court owing to the incorrect/incomplete or fake address of the accused in the final report. The report further reveals that further expending time in searching the accused is futile exercise and that the amount incurred for securing the presence of accused far exceeds the amount which may be imposed against him.

3. The Hon'ble High Court of Kerala in O.P.(Crl.) NO.809 OF 2023 **Suo Moto High Court Of Kerala v. State of Kerala & Anr.**, [2023/KER/76512], instituted suo moto by the High Court, has considered whether Section 258 CrPC enables a Magistrate to stop proceedings even in situations where, despite the best efforts of the prosecution, the appearance of an accused in a summons-case instituted otherwise than upon a complaint cannot be secured, and held in affirmative that provisions of Section 258 apply not only to petty offences but also to other summons-cases instituted otherwise than upon a complaint, and has issued practice directions to the Magistrates. The Hon'ble High Court of Kerala, vide Official Memorandum No D1-3/131211/2023 dated 12.01.2024, has directed all the Courts to comply with the directions in the judgment.

4. The case on hand is a summons-case instituted otherwise than upon a complaint which do not qualify as petty offence. The prosecution has filed a report stating that unambiguously that despite its best efforts it has not been successful in securing the presence of accused. I have scrutinized the report submitted by the prosecution, I am satisfied that reasonably sufficient steps are taken to ensure the presence of accused and that the costs of ensuring the appearance of such accused far exceeded the maximum fine that is prescribed for the offence, hence in this event the further proceedings are stopped and accused is discharged in accordance with Section 258 of the Cr.P.C.

Pronounced by me in open court on this the 8th day of June, 2024.

Sd/-

Judicial First Class Magistrate-II, (Forest Offences) Punalur

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