

ORDER BELOW EXH.1

The State of Maharashtra
(through PSO of Traffic Division) ... Complainant

V/s
... Accused

ORDER

1. As per the direction of The Hon'ble Bombay High Court and as per letter of D.L.S.A., Pune this case is put up in Special Drive as this case fit under Special Drive. The case is filed under the Motor Vehicles Act, 1988 against the accused.

2. On perusal of the record, it is found that, the matter is pending since long for securing presence of the accused. None of these offences are punishable with imprisonment for the period of 3 years. Therefore, according to part-II of schedule-I of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred as B.N.S.S.) all the above mentioned offences are non-cognizable in nature.

3. As no separate definition of the word 'complaint' is provided in the Motor Vehicles Act, 1988, hence we have to rely on the definition provided in B.N.S.S. as per section 2(1)(h). The explanation appended to it provides that,

“ a report made by a police officer which discloses after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint ; and the police officer by whom such report is made shall be deemed to be the complainant ”.

4. Applying this analogy, the present case is a complaint case. Since filing of this case, complainant is absent. Though, summons was prepared and distributed for service to accused, till date no report of either service or non service of the same is received to this court. There is absolutely nothing available on record about the existence of accused. The address available on record is very cryptic. Till today no steps are taken by the complainant to secure the presence of the accused. Also, the complainant has failed to keep the accused present before the court since long. The possibility of securing presence of the accused in near future is very feeble.

5. The Hon'ble Bombay High Court in the case of **Lloyds Finance Ltd. vs Skg Solvex Ltd. And Ors. 2002 CriLJ 2764 (Bom)** has held that,

"complainant cannot contend that, inspite of his long non-appearance, the court should look after the case and take appropriate steps. "

6. The complainant cannot be allowed to keep the case pending for an indefinite period as a speedy trial is the fundamental constitutional right of the accused. Hence, I find that the prosecution is not interested in proceeding positively with the case. In such circumstances, the case deserves for dismissal as the only available option. Hence, I pass following order :-

ORDER

1. The case is dismissed for want of prosecution and for want of taking steps.
2. The accused is/are acquitted for the offences punishable under the Motor Vehicles Act, 1988 under section 279 of Bharatiya Nagarik Suraksha Sanhita, 2023.
3. The P.R. and S.B. of accused if any stands cancelled.
4. The cash bail, if any, be returned to the accused after appeal period is over.
5. The case is disposed off accordingly.

Date :- 09/12/2024


(S.H.Wankhade)
Judicial Magistrate F.C.,
Motor Vehicle Court, Pune.