

**IN THE COURT OF PRINCIPAL SESSIONS JUDGE**  
**AT GANDHINAGAR.**

**Sessions Case No. 58/2019**

:: Order Below Exh. 1::

1. Today when the matter is taken on hand and the call out of the accused were done for more than three times, neither accused nor their surety or any advocate representing them is present in this Court. The learned A.P.P. is present.
2. It seems from the record that since more than 10 years accused did not remained present in Court. The original C.C. No. 9722/2009 was registered on 03.08.2009 and as the present accused no. 1 and 2 remained absent before learned Trial Court, the learned Trial Court had ordered to separate the chargesheet for the present accused and proceeded with the case on hand but as per order of learned Trial Judge, the Investigating Officer has filed present supplementary chargesheet wherein neither accused nor his surety were found since the chargesheet is filed and as the matter was so old the learned Trial Judge has committed to the Sessions Court and as case is exclusively Triable by the Court of Sessions. After receiving of the chargesheet even

Principal Sessions Judge  
Gandhinagar

present Court has issued non-bailable warrant frequently on the accused but they were not found on the address given to the Investigating Officer. Therefore, now it is high time to wait till the accused came before the Court and matter can be proceeded.

3. The legislature has on its own wisdom had made a provision that in absence of the accused how the proceedings can be carried out. Therefore, looking to the provisions of Section 299 read with Section 317(2) read with Section 273 of the Cr.P.C., this Court is of the opinion that the case should be placed on trial. The charge is required to be framed against present accused nos. 1 and 2. It is not the case where the accused may plead guilty even on the pleading guilty Court has to proceed and has to record evidence of the prosecution side. Therefore, it is to be assumed that the accused have not pleaded guilty and thereafter the evidence of the prosecution is required to be recorded in absence of the accused. Hence, as per the provision of Section 317(2) of the Cr.P.C., present case is required to be taken up by the Court in the absence of accused. The Court cannot keep this type of fertile cases till the accused comes before the Court and trial can be

commenced or till the sun and moon is in existence. Hence, following order is passed:-

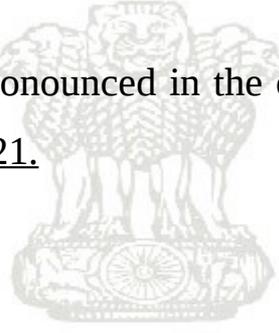
**:: ORDER ::**

1. The case is ordered to be taken up and charge is ordered to be framed.
2. The case is ordered to be proceeded as the accused had not pleaded guilty and in accordance with the law.

Signed and pronounced in the open Court on this 18<sup>th</sup> day of August, 2021.

Dated: 18/08/2021

Place: Gandhinagar



**[Nipa C. Raval]**  
**GJ00370**

रात्यमेव जयते  
Principal Sessions Judge  
Gandhinagar

//S.A.GNR//

Principal Sessions Judge  
Gandhinagar