

ORDER BELOW EXH. 01

1. Perused the record. The chargesheet has been filed under section 285 of the Bharatiya Nyaya Sanhita, 2023 Upon institution of the matter the cognizance has been taken and order for issuing summons to the accused has been passed. This court has observed that there has been enough attempts of serving the summons to the accused and even the warrants have been issued against the accused. But, the prosecution has miserably failed in securing the presence of accused before this court till today.
2. This court has taken into consideration that the matter is quite old and is still on the stage of process to accused and it is a fact on record that the police agency has also failed in securing presence of accused before this court. Hence, at this juncture, this court considers it appropriate to rely on the ratio laid down in the case of **Mulchand Motilal Raka v The State of Maharashtra & Anr. 1996(2) Crimes 177 (Bom)** where in it has been held that Section 258 of the Code which empowers to stop the proceedings in certain cases is intended to meet with certain situations, where the presence of accused persons cannot be secured or presence of any important witness cannot be secured by the prosecution, which is necessary for the trial of the case. Therefore, where the Magistrate does not find it possible to dispose of the matter by adopting normal procedure contemplated by the Code for one reason or other as herein above stated, in such situation it would be open to the Magistrate to stop further proceedings of the case. Section 285 of the Bharatiya Nyaya Sanhita, 2023 can be resorted to where the special or unusual circumstances exist, such as non-appearance of the accused before the Court for considerable time or of the important witness of the prosecution, which make it difficult or

impossible for the Magistrate to proceed with the case in normal way. Therefore, in such situation, where the Magistrate finds it difficult to decide the case on merit, without any hindrance, in the normal manner, as per procedure under the Code, the provisions of section 285 of the Bharatiya Nyaya Sanhita, 2023 can be resorted to. "

3. In present case, taking into consideration the gravity of offence, quantum of punishment and the fact that the investigating officer has filed chargesheet years before but, the presence of accused could not be assure till today, This court does not consider it appropriate to prolong this matter any more by keeping it alive. Therefore, I pass following order in the interest of Justice.

ORDER

- I. The proceedings against the accused are ordered to be stopped in view of the provisions enshrined under section 285 of the Bharatiya Nyaya Sanhita, 2023.
- II. The prosecution against the accused shall revive when the accused is found as per the mandate of Section 300(5) of the Code of Criminal Procedure, 1973.
- III. Valuable muddamaml seized if any be auctioned and proceeds of the same shall be submitted to the Government and the non valuable muddamamal be disposed of after appeal period.

Order pronounced and signed today in Special Sitting.

Dt:11/07/2026.

Taluka: Vapi.

(Ms. K. S. Soni)

Addl. Civil Judge, Vapi.

GJ01649