

ORDER BELOW EXH.1 IN S.C.C.NO. 894/2022
(State v. Atul Satyavan Gaikwad)

The accused and his learned advocate are absent when called out repeatedly. On perusal of record and proceeding, it shows that, the accused came to be charge-sheeted for offence punishable under Section 65(e) of the Maharashtra Prohibition Act.

02. It further appears that, since long the case is pending for securing presence of the accused. However, in spite of repeatedly issuance of summons against the accused, police failed to secure presence of the accused. It further shows that, police could not found whereabouts of the accused. It also shows that, the Investigating Officer failed to file report of Chemical Analyzer in the present case till today. In absence of the report of Chemical Analyzer, there is no warrant of conviction of the accused.

03. As per section 258 of the Code of Criminal Procedure, in any summons case instituted otherwise than upon complaint, the Judicial Magistrate, First Class may stop the proceeding at any stage without pronouncing any judgment and discharge the accused. The Legislature has incorporated the word 'may' in Section 258 of the Code of Criminal Procedure, which gives discretionary power to the Court to stop the proceeding at any stage.

04. In view of above discussion, it shows that, there is no likelihood of securing presence of the accused in the near future. In the absence of the accused, it is very difficult to proceed further. Moreover, in absence of the report of Chemical Analyzer, there is no warrant of conviction of the accused. Therefore, considering above facts and circumstances, it is just and proper to stop the proceeding against the accused under Section 258 of the Code of Criminal Procedure. Hence, I pass following order :-

:: O R D E R ::

1. The proceeding is hereby stopped under Section 258 of the Code of Criminal Procedure.
2. Accused Atul Satyavan Gaikwad is hereby released from offence punishable under Section 65(e) of the Maharashtra Prohibition Act vide Section 258 of the Code of Criminal Procedure.
3. Bail bonds of the accused, if any, stand cancelled.
4. Seized muddemal i.e. one plastic can containing approximately 20 litres liquor being worthless, be destroyed after expiry of the appeal period.

(Dictated and pronounced in the open Court)

Akkalkot.
Dated:- 05.09.2023.

(Balasaheb S. Gaikwad)
Judicial Magistrate First Class,
Court No.1, Akkalkot.

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Order Below Exh.1 in S.C.C. No. 894/2022.
[CNR NO. : MHSO15-001804-2022]

C E R T I F I C A T E

I affirm that the contents of this PDF file Order / Judgment are same word to word, as per the original Order / Judgment.

Name of the Stenographer : Mrs. A.S.Magnur (Grade-III).
Court : Judicial Magistrate First Class, Akkalkot.
Date : 05.09.2023.
Judgment / Order signed by P. O. on : 05.09.2023.
Judgment / Order uploaded on : 05.09.2023.