

MHTH130002012012



R.C.C. No. 591 of 2012

State of Maharashtra

Vs.

Mohananda Rajkumar Chavan & ors.

ORDER BELOW EXHIBIT NO.1

1] In this present case charge-sheet has filed by the Vitthalwadi Police Station, Ulhasnagar on dated 22.08.2012 **Mohananda Rajkumar Chavan & ors.** for an offence punishable under section 325 read with section 34 of the Indian Penal Code, 1860 against accused namely Mohananda Rajkumar Chavan and Shashikant Chandrakant Gaikwad. My Ld. Predecessor has pass an order below Exh.01 dated 19.08.2019 and abated the proceeding against accused no.2 namely Shashikant Chandrakant Gaikwad. Thereafter, the accused no.1 is continuously absence before the Court. Hence, N.B.W. and proclamation has been issued under section 82 & 83 of the Code of Criminal Procedure, 1973. However, the presence of the accused could not be secure before the Court.

2] The matter is more than 14 years old. Consequently summons to prosecution witnesses were issued for recording their evidence as per section 299 of the Code of Criminal Procedure, 1973. Summons report shows that the informant is died on 13.02.2014 and other witnesses are not residing on given address. The person who are residing at given address do not know where about the other witnesses are living. The prosecution witnesses Shri. Gopal Savle P.C.B. 7777 Vitthalwadi Police Station deposed in the Court that he tried best to secure the presence of witnesses. But, the witnesses were not found on the given address. In spite of service of summons the panch witness and Investigating officer did not turn up to this Court for recording their evidence. Hence, their evidence could not be recorded.

3] The learned A.P.P orally submitted that after effective and

meaningful steps the prosecution failed to secure presence of prosecution witnesses. Hence, She does not want to lead further evidence under section 299 of the Code of Criminal Procedure, 1973. Hence, prosecution evidence is closed.

4] For commencement of trial their presence was necessary so all the steps provided under the Code of Criminal Procedure are taken. On perusal of the report under section 173 of the Code of Criminal Procedure, 1973 and the entire evidence recorded under section 299 of Cr.P.C. on record. There are no substance to frame the charge against accused. The matter is more than 14 year old. The Hon'ble Bombay High Court directed to dispose of the old cases expeditiously on priority basis. The prosecution/police failed to secure the presence of the accused as well as the witnesses. Moreover, no prospect is seen of appearance of the accused in near future. Thus, no purpose will be served to keep the matter pending on record unnecessarily. Therefore, considering the facts and circumstance of the case, the allegations against the accused for framing of the charge under section 325 read with section 34 of I.P.C. are groundless. Therefore, the accused is liable to be discharge as per the provisions of section 239 of the Code of Criminal Procedure, 1973. Hence, I proceed to pass following order;

ORDER

- 1] The accused namely Mohananda Rajkumar Chavan is discharged vide section 239 of the Code of Criminal Procedure, 1973.
- 2] His bail bond stands cancelled/Cash surety be credited to government.
- 3] The seized muddemal is being worthless, be destroyed after

(3)

R.C.C. No. 591 of 2012
State of Maharashtra Vs.
Mohananda Rajkumar Chavan & ors.

the appeal period is over.

- 4] Warrant be called back, if any issued.
- 5] The case be disposed of accordingly.

Date : 10/07/2026

(Ganesh R. Kolte)
Judicial Magistrate First Class
(Court No.4) Ulhasnagar.