

ORDER BELOW EXH.1 IN SCC No.16326/2014

1. Charge-sheet has been filed for the offences under section 85(1) of Bombay prohibition Act. On perusal of charge-sheet and FIR it is alleged that, the accused was found under influence of liquor in a public place .

2. In the case of *A.R.Antuley Vs. R.S.Naik, 1998 Cr.L.J. 4596*, the Hon'ble Supreme Court has held in para No.16 that,

“(I) In case where the trial is for the offence punishable with imprisonment for a period not exceeding seven years, whether the accused is in jail or not, the court shall close the prosecution evidence on completion of period of two years from the date of recording of plea of the accused on the charge is framed, whether the prosecution has examined all witnesses or not within the said period and the court can proceed to the next step provided by law or the trial of the case.

(II) In such cases mentioned above if the accused has been in jail for a period of not less than one half of the maximum period of punishment prescribed for the offence, the trial Court shall release the accused on bail forthwith on such conditions as it deems fit.

(III) If the offence under trial is punishable with imprisonment for the period of exceeding seven years whether accused is in jail or not, the court shall close the prosecution evidence on completion of period of three years from the date of recording of plea of the accused on the charge framed, whether the prosecution has examined all witnesses or not within the said period and the Court can proceed to the next step provided by law or the trial of the case, unless for very exceptional reasons to be recorded and in the interest of justice the Court considers it necessary to grant further time to the prosecution to adduce beyond the aforesaid time limit.

(IV) But the inability for completing the prosecution within the aforesaid period is attributable to the conduct of accused in protracting the trial, no Court is oblige to close the prosecution evidence within the aforesaid period in any of the case covered by clause (I) to (III).

(V) Where the trial has been stayed by the order of court or by operation of law, such time during which the stay was in force shall be excluded from the aforesaid period for closing the prosecution evidence. ”

3. The charge was recorded on 4.07.2016. Inspite of ample

opportunities, the prosecution failed to secure the presence of accused and also failed to lead further evidence.

4] In the case Satish Mehra Vs. Delhi Administration and others 1996 JCC 507 the Hon'ble Supreme Court has held that in cases where there is no prospect of the case ending in conviction, the valuable time of the Court should not be wasted for holding a trial only for purpose of formally completing the procedure to pronounce the conclusion.

5] The record and proceeding shows that the prosecution side failed to secure the presence of accused besides the Court issuing summons and warrants repeatedly. The possibility and probability of securing the presence of accused and prosecution witnesses in the Court appears to be very weak. Hence, this is a fit case to invoke Section 258 of the Code of Criminal Procedure, 1973. This case also falls within the category of stale and ineffective case. No fruitful purpose would be served by keeping the case pending. Hence, the order.

ORDER

- i) The summary proceeding under section 85(1) of Bombay prohibition Act are stopped vide Section 258 of the Code of Criminal Procedure, 1973.
- ii) The warrant against the accused is cancelled and it be tagged with the case.
- iii) The original police papers be retained in "C" file for their use in the event of reopening the case under Section 300(5) of the Code of Criminal Procedure, 1973.
- v) Proceeding stands disposed off.

Pune.

Date:- 8.11.2022

(C. P. Shelke)
Judicial Magistrate, First Class
Court No.5, Pune.

I affirm that the contents of this PDF file judgment are same word to ward as per original judgment.

Name of Steno : Gilbile A.D.

Court Name : C.P.Shelke

Date : 08.11.2022

signed by P.O. on : 08.11.2022

uploaded on : 08.11.2022