

CNR No. MHGA050003672019ORDER BELOW EXH.01

[Passed on : 12/08/2026]

Perused the record. It reveals that the charge-sheet/final report is filed in the year 2019 by the Police authority of Desaiganj Police Station in the crime bearing FIR No. 64/2019 for the commission of offence punishable under Section 380 of the Indian Penal Code. The record further shows that the accused was released on bail at remand stage on 20.03.2019. Thereafter, charge sheet came to be filed on 07.08.2019, in absence of accused. Since filing of chargesheet, he remained absent. The record further shows that time to time warrants were issued against him but all efforts gone in vain.

2. The Court on 03.12.2025 passed the order below Exh.1 for recording evidence of witnesses vide Section 299 of Criminal Procedure Code after complying the procedure provided under Section 82 and 83 of Criminal Procedure Code. There were total 10 witnesses named in the list of witnesses of the chargesheet. The Court recorded deposition of 2 prosecution witnesses vide Section 299 of Criminal procedure Code. PW.1 who is panch witness deposed about seizing of LED T.V. and execution of property search and seizure form Exh.P1/PW1 & PW2/PW1 respectively. The PW.2 panch witness on spot panchnama turned hostile. No other witness appeared for examination despite issuing summons several time. Therefore, prosecution closed their side of evidence by filing pursis Exh.14.

3. The testimony of witnesses only reveals that one LED TV was seized from the shop in his presence. On perusal of charge-sheet and statements of the witnesses recorded under Section 164 Cr.PC., attached therewith as well as the testimonies of the witnesses recorded under Section 299 of Cr.PC., no ingredients of offence punishable

under Section 380 of I.P.C. made out to frame the charge against the accused, as no relation seems of the accused with the alleged offence.

4. It is pertinent to note here the fact that the court has taken every appropriate steps to secure presence of the accused, despite that the prosecution failed to produce the accused. As per report from the police the accused is not traceable and his whereabouts are not known. Under these circumstances, no fruitful purpose would be served by keeping the case pending in the hope that at some future time, the accused would be traced. The record shows that the alleged stolen property is seized and still pending in the matter. In such situation if the accused is not traceable, the correct procedure is to close the matter. Apart from that the Hon'ble Superior Court already directed to the judicial officers of trial Court to take the necessary steps to dispose of the old cases in order to decrease the old pendency.

5. In the case of ***State of P. P. Milton, 1994(4) KarLJ 588***, the Hon'ble Karnataka High Court specifically observed and held in para 3 that after a reasonable period of time thereafter there is no special obligation to keep the matter pending indefinitely. The said para 3 I have reproduced as under;

3. The facts of this case however, indicate that the learned Magistrate has given the prosecution sufficient time to produce the accused and has also taken appropriate steps against the surety to secure the presence of the accused. It is on record, through a report from the police, that the accused is not traceable and his whereabouts are not known. In these circumstances, to my mind, the trial Court was no longer obliged to wait or to keep the proceedings pending in the hope that at some future point of time, the would be traced.

Considering the nature of the offence it is relatively a minor one and consequently after having made reasonable efforts if the accused is not traceable, the correct procedure is to close the matter. The action taken indicates that the trial Court has taken necessary steps to try and secure the presence of the accused. Having regard to the arrears of cases and the pressure on Judicial time, to my mind, the trial Court was fully justified in continuing with the proceedings. After a reasonable period of time thereafter there is no special obligation to keep the same pending indefinitely. In this view of the matter, the Revision Petition fails and stands dismissed.

6. As per Section 239 of CR.PC., the accused can be discharged if upon considering the police report and documents sent with it under Section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

7. The case is instituted otherwise than upon complaint. Needless to reiterate that already more than 6 years are already passed but prosecution failed to produce the accused before Court. As the presence of accused could not be secured inspite of repeated and sufficient efforts, there is no progress in the trial of case. There is no possibility of securing presence of accused in the near future. Apart from that no incriminating material come on record against the accused to prove the alleged offence. Hence, accused shall be discharged as charge against the accused are groundless. The seized property i.e. LED T.V. required to be sold in public auction, and sale

proceed of the same shall be credited in government account, as the informant did not come before Court, despite service of witness summons and failed to claim its custody. Hence, I proceed to pass following order.

ORDER

1. The accused is discharged from the charge levelled against him as per Section 239 of the Criminal Procedure Code, 1973.
2. His bail bonds stands, cancelled.
3. The seized property i.e. Hair T.V., be sold in auction and sale proceed of the same be credited in government account.
4. Call back warrants if any and tag with the record.

Desaiganj:
Date: 12/08/2026

(Satish Gopalrao Gore)
Judicial Magistrate F.C.,Desaiganj.
JO Code MH-2902