



ORDER PASSED BELOW EXH.01 IN

R.C.C. NO.151 OF 2003

State Vs. Ganesh and Ors.

(Passed on 03rd day of August 2026)

CNR No.MHLA050013572025

1] Perused record. Case is old for 23 years. Inspite of issuance of warrant to the accused namely, Ganesh Gisa Solunki, Ambadas Mahesh Solunki and Gabdu Parisram Solunki and their presence was not secured. Though, the proclamation was issued. There is no prospect to secure the presence of the accused in near future.

2] Heard the Ld. APP, she submits that, if court come to the conclusion that, no evidence is forthcoming against accused then appropriate order be passed.

3] Accordingly, the prosecution has led evidence under section 299 of the Cr.P.C. Prosecution has examined complainant Jayprakash Ramvilas Dad (PW-1), he deposed that, he is unable to state who have committed theft on the date of incident. He further deposed that, he has no complaint against present accused, and he is not interested to proceed against the any accused. The complainant has also filed pursis at Exh.27, with contention that, he is not interested to proceed the case against the accused person.

4] Prosecution witness has not made any whisper against the accused in regard to their role and complicity in the commission of offence. In short there is no iota of evidence to connect them with a crime by way of substantive evidence led by the prosecution.

5] The accused have absconded or there is no immediate prospect of arresting them as provided under first part of Section 299

(1) of the criminal procedure Code. When the accused are arrested and put for trial, if any such deposition of witnesses whose evidence is recorded is intended to be used as an evidence against the accused in trial on satisfaction of certain events.

6] In short, the situation which would be arose after the arrest of the accused in future would be the same existed at present pertaining to the evidence recorded under section 299 of the Code of Criminal Procedure Code or factual aspects of the case relating to the securing the presence of the witnesses, who were not found.

7] Considering this background, the status of the present proceeding is stale and ineffective. Accordingly, we have to consider evidentiary value recorded under section 299 of the Criminal Procedure Code that too whether same is sufficient to warrant the conviction of the accused in the event of securing their presence in future. If evidence is not sufficient to warrant the conviction then there is no propitiatory to keep this proceeding pending for indefinite period to save the time of court, police machinery and prosecutor. It is desirable to pass appropriate order considering the provisions of section 299 of the Criminal Procedure Code and section 33 of the Evidence Act, which contemplates admissibility of evidence which is recorded under section 299 of the Criminal Procedure Code.

8] Perused the record. The evidence led by the prosecution under section 299 of Cr.P.C. is not sufficient to warrant the conviction of absconding accused in the event of securing presence. So, available evidence on record if we treat to be proved evidence then also offence will not made out to warrant the conviction of accused in the event of securing his presence. So, there is no evidence on record to warrant the

conviction of accused Ganesh Gisa Solunki, Ambadas Mahesh Solunki and Gabdu Parisram Solunki. Hence, I pass following order.

ORDER

1. Accused namely Ganesh Gisa Solunki, Ambadas Mahesh Solunki and Gabdu Parisram Solunki are discharged from the offence punishable under Section 457, 380 r/w 34 of Indian Penal Code.
2. The seized cash amount of Rs.2595/- be returned to the informant/complainant Shri. Jayprakash Ramvilas Dad after expiry of appeal period and after due verification and obtaining proper acknowledgment .
3. Any pending NBW/Proclamation issued against the accused persons stand canceled.
4. Record and proceeding be send to record room.

Date : 03/08/2026.

Place : Ahmedpur.

(R.D. Wabale)

Add. Chief Judicial Magistrate,
Ahmedpur.