

SCC No. 12096/2018

ORDER BELOW EXH.1

The State of Maharashtra
(through PSO of Bhasraj
Traffic Division)

.... Prosecution

V/s

Dipak A. chohan

... Accused

ORDER

1. The case is filed under sections 184, 185, 3(1)/181, 130/177, 158/177 and 129/177, 188 of the Motor Vehicles Act, 1988.
2. On perusal of the record, it is found that, the matter is pending for almost 4 year for securing presence of the accused. None of this/these offence/ offences is/are punishable with imprisonment for the period of more than 3 years. Therefore, according to part-II of schedule-I of the Code of Criminal Procedure, 1973 (hereinafter referred as Cr. P.C.) all the above mentioned offences are non-cognizable in nature.
3. As no separate definition of the word 'complaint' is provided in the Motor Vehicles Act, 1988 we have to rely on the definition provided in Cr.P.C. as per section 2(d). The explanation appended to it provides that,

" a report made by a police officer which discloses after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint ; and the police officer by whom such report is made shall be deemed to be the complainant ".
4. Applying this analogy, the present case is also a complaint. The present complaint is filed on 17/2/18. Since then the complainant is absent. Though, summons was prepared and distributed for service, till date no report of either service or non service of the same is not received by this court. There is absolutely nothing available on record about the existence of accused. The address available on record is very cryptic. Till today no steps are taken by the complainant to secure the presence of the accused. Also, the

complainant has failed to keep the accused present before the court for last _4_ years. The possibility of securing presence of the accused in near future is very feeble.

5. The Hon'ble Bombay High Court in the case of *Lloyds Finance Ltd. vs Skg Solvex Ltd. And Ors. 2002 CriLJ 2764 (Bom)* has held that,

"complainant can not contend that, inspite of his long non-appearance, the court should look after the case and take appropriate steps. "

6. The complainant can not be allowed to keep the case pending for an indefinite period as a speedy trial is the fundamental constitutional right of the accused. Hence, I find that the prosecution is not interested in proceeding positively with the case. In such circumstances, the case deserves dismissal as the only available option. Hence, I pass following order :-

ORDER

1. The case is dismissed for want of prosecution and for want of steps.
2. The accused is/are acquitted for the offences punishable under sections 184, 185, 3(1)/181, 130/177, 158/177 and 129/177, 188 of the Motor Vehicles Act, 1988 under section 256 of the Code of Criminal Procedure, 1973.
3. The P.R. and S.B. of accused stands canceled.
4. The cash bail, if any, be returned to the accused after appeal period is over.
5. The case is disposed off accordingly.

Date :- 11 /11/2022


(S. S. Parkhi)
Judicial Magistrate F.C.,
Motor Vehicle Court, Pune.