

ORDER BELOW EXH. 01

This is a case for the offence punishable under Section 65(e) of the Bombay prohibition Act filed on 27.06.2013. In this case the investigating machinery alleged that the accused is found in possession of the country liquor and on the place of occurrence, the liquor came to seized. The investigating machinery further alleged that they have taken the sample from the seized liquor and sent it for chemical analysis. However, no report of the chemical analysis have been filed by the police till date. Also, no reasons are furnished for such failure despite of lapse of more than three years. Further, it is alleged that the seized liquor was sent to the chemical analysis. The CA form is attached to the chargesheet does not bear any outward number or name of the person who carried the samples to the laboratory. When it is the case that property is sent for CA analysis, the statement of the carrier has to be on record that he carried the sealed property i.e. sample to such analysis. In absence of this evidence, the guilt of the accused is difficult to be proved. It would not be far fetch to observe that in absence of such evidence, the acquittal is the foregone conclusion. Further, in lieu of direction given by the Hon'ble Chief Judicial Magistrate, Amravati in the report of compliance of Inspection note, dated 03.07.2017, O.W. No. 585/2017, this is a fit case to dispose the matter under Section 258, Cr.P.C. Hence, I proceed to pass the following order.

ORDER

1. The proceeding is hereby stopped vide Section 258 of the Code of Criminal Procedure. The accused is discharged of the offences punishable under Sections 65(e) of the Bombay Prohibition Act .

.2.

2. The bail-bonds, if any, of the accused stands cancelled.
3. The country liquor, if any, be sent to concerned Excise department for disposal of Nylon bag, being worthless, be destroyed and the steel glass be auctioned after expiry of the appeal period.

Date: 20.09.2017.

(Ms. Akshi Jain)
Judicial Magistrate First Class,
Court no.5, Amravati.