

C.C.No.4791/2008

Order below Exb.1

1. Today, I have taken this case on hand in special sitting. This is a private complaint filed for the offence under Sec.420 of I.P.Code.

2. Looking the record of the case, this Court has issued process against the accused for the offence, and summons was issued, which is returned unserved as accused has closed the premises. Thereafter, complainant was called to present the new address of the accused. Since long, complainant has not remained present before this Court. Due to absence of the complainant the case can not be proceed further.

3. The case is transferred to this Court from N.I.Act Court. After receiving the case, this Court has also issued notice to the complainant to remain present, which is also returned unserved.

4. In the situation, this Court is left with no option but to pass an order under Sec.249 of Cr.P.C, as the present case is filed upon the private complaint. Because, there is no chance, how the court could assure the presence of the complainant or the accused, as both have changed their address. Provisions of Sec.249 is reproduced below:

249. Absence of complainant.—When the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case, the complainant is absent, and the offence may be lawfully compounded or is not a cognizable offence, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

It is the duty of the complainant to produce the address of the accused for getting the process served on the accused. The case is on the stage of evidence of charge after serving the notice upon the accused.

4. Hence, it is hereby ordered to discharged the accused in the case on hand.

Today pronounced in Special Sitting of the Court on May 13, 2023.

Ahmedabad.

(V G Rana)

Addl. Chief Metropolitan Magistrate,

GJ00964