

ORDER BELOW EXHIBIT NO. 1

1. The matter was taken up during the special sitting held on today. The prosecution has filed the present charge-sheet against the accused under Gujarat Prohibition Act, which are summons triable in nature. The matter is an old one. It is evident from the record of the case that the present case is on serving of process to the accused. It is also evident that the process has been returned unserved as the accused could not be found at the place of his abode. It is clear that prosecution has failed to secure the presence of the accused.
2. Looking to the pendency of court cases, keeping the case in dead state is only adding the burden on the Indian Judicial System. Today huge numbers of people are waiting for Justice from the courts, therefore, it is very much essential to safeguard their fundamental rights by disposing the dead matters having no fate.
3. The Hon'ble High Court of Bombay in ***Mulchand Motilal Raka v. State of Maharashtra*** has laid down that

“Section 258 of the Code which empowers to stop the proceedings in certain cases is intended to meet with certain situations, where the presence of accused persons cannot be secured or presence of any important witness cannot be secured by the prosecution, which is necessary for the trial of the case. Therefore, where the Magistrate does not find it possible to dispose of the matter by adopting normal procedure contemplated by the Code for one reason or other as hereinabove stated, in such situation it would be open to the Magistrate to stop further proceedings of the case. Section 258 of the Code can be resorted to where the special or un-usual circumstances exist, such as non-appearance of the accused before the Court for considerable time or of the important witness of the prosecution, which make it difficult or impossible for the Magistrate to proceed with the case in normal way. Therefore, in such situation, where the Magistrate finds it difficult to decide the case on merit, without any hindrance, in the normal manner, as per procedure under the Code, the provisions of section 258 of the Code can be resorted to.”

4. Hence in the larger interest of justice, I hereby pass the following order:

ORDER

- i. The proceedings of the present case against the accused are hereby stopped under Section 258 r/w 300(5) of the Criminal Procedure Code, 1973.
- ii. The bail-bond of the accused, if any, is hereby ordered to be canceled and the surety is hereby discharged. Cash bail bond, if any, stands hereby forfeited and cash is ordered to be deposited to the government's account.
- iii. Non-valuable muddamaal, if any, be disposed of after the lapse of appeal period.

Announced in open Court.
08/12/2018

(Himanshu Choudhary)
3rd ACJ & JMFC, Surat
Judge Code: GJ01180