

ORDER BELOW EXHIBIT NO. 1 IN CRIMINAL CASE NO./.....

1. The prosecution has filed the present charge-sheet against the accused under Gujarat Prohibition Act, which are summons triable in nature. The matter pertains to year..... It is evident from records of the case that the present case is on serving of summons and warrants to the accused. It is also evident that the process is returned to this Court un-served vide exhibit.....
2. Looking to the pendency of court cases, keeping the case in dead state is only adding the burden on the India's legendary judicial System. Today huge numbers of people are waiting for Justice from the court therefore it is very much essential to safeguard their fundamental rights by disposing the old dead matters having no fate.
3. 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. Taking into consideration the ratio laid down by the Hon'ble Supreme Court of India in **P. R. Rao v. State of Karnataka 2002 (2) GLR 1549** and the ratio laid down by Hon'ble High Court of Bombay it seems to this court that no reasonable reasons are there to proceed with the trial as the prosecution has miserably failed in their duty to mark the presence of the accused before this Court. Thus Left with no hope of progress of present case in the near future, the proceeding is stopped under section 258 of CrPC. Hence in the larger interest of justice, I hereby pronounce the following order:

ORDER

1. The proceedings against the accused is hereby stopped under section 258 r/w 300(5) of the Criminal Procedure Code, 1973. The accused is hereby discharged from the charge under the above-said Act.
2. The bail-bond of the accused is hereby stands cancelled and the surety is hereby discharged.

3. Cash bail bond, if any, is hereby forfeited and money of cash bond be deposited in government fund.
4. Non Valuable muddamaal,if any, be disposed off after lapse of appeal period.

Signed and pronounced in this open Court in this 8th day of Decembers 2018.

Date: 08/12/2018

(HASMUKH J. PARMAR)

Place: Surat

15TH ADDL. JUDICIAL MAGISTRATE F.C.
Judge Code:GJ1422