

ORDER BELOW EXH.1

Perused record. The present final report is filed in respect of an offence punishable U/Sec. 65 of Maharashtra Prohibition Act. The Sec.116 of the said act provides that all the offences shall be tried by procedure laid down for trial of summary cases. Despite that present matter is registered as regular criminal case. It ought to have been registered and tried as summary case in view of this specific provision laid down in Sec.116 of Maharashtra Prohibition Act. The administrative act of registration of summary case as regular criminal case makes no difference as statutory provision will prevail over administrative act. The matter is bound to be proceeded as per procedure laid down for trial of summary cases. Therefore, Sec. 258 of Code of Criminal Procedure is applicable to this matter.

In view of nature of the offence the basic requirement for prosecution of it and consequent punishment is report of chemical analyzer. The offence registered since long back. The Investigating Officer consumed much time for filing of final report but neither with the final report nor after filing of this report till date the report of chemical analyzer is filed in this court. Therefore, there is no point in proceeding with the present matter, hence following order -

ORDER

The proceeding stopped U/Sec.258 of Code of Criminal procedure. Accused is discharged. Cash surety, if any, deposited shall be returned to accused after appeal period.

PUNE

DATE – 03.10.2019

(KOMALSING RAJPUT)

2ND JOINT J.M.F.C., COURT NO. 5, PUNE

I affirm that the contents of this PDF file judgment are same word for word as per original judgment.

Name of Steno	: Gilbile A.D.
Court Name	: Komalsing Rajput
Date	: 03-10-2019
signed by P.O. on	: 04-10-2019
uploaded on	: 04-10-2019