

CRIMINAL CASE NO.37005 OF 2010.

ORDER BELOW EX.1.

1. Section 258 Cr.P.C. empowers the Magistrate to stop proceedings in certain cases. It provides that the Magistrate of the First Class may, for reasons to be recorded by him, stop proceedings at any stage without pronouncing any Judgment and where stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, he may pronounce the Judgment of acquittal and in any other case release the accused, and such release shall have the effect of discharge. In the case of **Ahmed Hussain. V/s. State of Maharashtra, reported in 1991 Criminal Law Journal at Page 2303**, Hon'ble Bombay High Court relying on precedents of Hon'ble Supreme Court has held that the Magistrate is empowered under Section 258 Cr.P.C., to stop the proceedings at any stage if no evidence is available or the material placed before Trial Court is of such nature that it would not result in conviction and as such consequently continuance of prosecution would be unjustified. Moreover, in the well known case of **Hussainara Khatoon (1980) 1 SCC at Page - 98**, Hon'ble Supreme Court has laid-down that speedy trial is an essential ingredient of reasonable fair and just procedure guaranteed by Article - 21 of the Constitution of India. The State is therefore obliged to provide speedy trial. Similar view has been taken by the Apex Court in the case of **P. Ramchandra Rao. V/s. State of Karnataka 2002 (2) GLR 1549** holding that Article 21 requires speedy trial in Criminal cases and in case of

delay, the trial Court should exercise powers under Sections 258 and 309 when the proceedings are found to be oppressive.

2. This is a Summons case instituted otherwise than upon complaint. This case is very old. Summons and Warrants have been issued to secure the presence of the accused on the address given in Column No.1 of the Charge-sheet, which appears to be incomplete or incorrect address. The presence of accused therefore cannot be secured in future as well and as such accused is not likely to be convicted. This is therefore a fit case where the proceedings should be stopped under Section 259 of Cr.P.C.
3. Under the circumstances the proceedings of this case are stopped under Section 258 of Cr.P.C. for the reasons hereinabove recorded. Since the principal witnesses have not been examined in this case, the effect of the stoppage of proceedings would be that of discharge of the accused. A consent to file fresh Charge-sheet under Section 300(5) of Cr.P.C. is granted to the concerned Police station as and when the accused is arrested. Order accordingly.

Pronounced on this 13th day of July, 2019 in Special sitting.

Date : 13/07/2019.
Place : Vadodara.

(Krish Shrichand Makhija)
GJ00668
4th Addl. Chief Judicial Magistrate,
Vadodara.