

ORDER BELOW EXH.1 IN R.C.C. No. 204/1999

1] The chargesheet filed against the accused under Section 406, 34 of the Indian Penal Code.

2] I have carefully gone through the record of the case. It appears that this case is very old. The accused are absconding since last many years. On several times, Non-bailable warrants and proclamations were issued against the accused. However, they could not be traced out. The prosecution has failed to secure the presence of accused. Therefore, the prosecution is hereby directed to lead its evidence under Section 299 of the Code of Criminal Procedure. Accordingly, summons were issued to complainant and other prosecution witnesses. The summons serving officer has submitted the report which indicates that witnesses have not been residing at their given address and therefore, they could not served with summons. Their whereabouts are also not known. Thus, there is no possibility of securing the presence of prosecution witnesses for the purpose of recording their evidence at the trial of this case.

3] Furthermore, the Hon'ble Bombay High Court and Hon'ble District & Sessions Court, Thane has given directions to subordinate Courts to dispose off the old cases. In these circumstance, it would not be proper to postpone this case on further date for hearing.

4] Under Section 239 of the Code of Criminal Procedure, the Court has to see whether the trial is sure to end in a conviction of the accused. There is no possibility of this case to ending in conviction and the trial of this case would be an exercise in futility. I, therefore, do not find any point in keeping this case pending as it would result in a mere wasting of valuable time of the court. After considering all these aspects, I think that it would be proper to discharge the accused and close the proceeding of this case for want of

evidence of prosecution side. In this view of the matter, I proceed to pass following order :

ORDER

- i] Accused Shaukat Inamulak Khan is hereby discharged for the offence punishable under Section 406, 34 of the Indian Penal Code.
- ii] His bail bonds stand cancelled.
- iii] The muddemal property, if any, be disposed off as per rule.

Place : Thane
Date: 07/01/2021

Sd/-
(Smt. P. P. Ingale)
Chief Judicial Magistrate, Thane