

IN THE COURT OF METROPOLITAN MAGISTRATE,
36th COURT MUMBAI CENTRAL, MUMBAI.

C. C. No. 39/PS/2021.

ORDER BELOW (EXH.-1)

1. Today, the special drive is organized as per the directions of the Hon'ble Bombay High Court vide ***letter no. B(Gen)-1001/2023/3, dated 03/01/2023*** to dispose off old and ineffective matters. In my view, this is a fit case where resort can be taken to the provisions of section 258 of Cr.P.C. to stop the further proceeding.
2. Perused Roznama. The Roznama of the case reveals that, the accused is continuously absent since long. The prosecution could not secure the presence of the accused in spite in issuing warrants against the accused.
3. In the case titled ***Mulchand Motilal Raka V/s. State of Maharashtra and another 1996(1) B Cr C 36***, the Hon'ble Bombay High Court has observed that where the presence of the accused cannot be secured or presence of any important witness cannot be secured by the prosecution, which is necessary for the trial of the case and where the Magistrate does not find it possible to dispose of the matter by adopting normal procedure contemplated by the Court for one reason or other, it would be open to Magistrate to stop further proceeding of the case under section 258 of Cr.P.C. In my view, the present case is fit in the circumstances depicted by the Hon'ble High Court in the case supra.

4. In the present case also the prosecution failed to secure the presence of the accused. There are no immediate chances of securing his presence in near future. Hence, order.

ORDER

- 1 The proceeding against the accused is hereby stopped vide section 258 of Cr.P.C.
- 2 Accused is discharged. Bail bonds, if any, of the accused stands cancelled.
- 3 Seized muddemal be returned to its lawful owner after verification of documents, after appeal period is over.
- 4 Warrants issued if any be returned.

Sd/-

(B. K. Gawande)

Metropolitan Magistrate,
36th Court, Mumbai Central,
Mumbai.

Date : 09/02/2023.
ASS.