

Order dated 29.09.2023

Today is fixed for show cause by the complainant.

The accused person is present after filing hazira.

On repeated call no one appears for the complainant, no show cause is filed either.

It is 11:20 AM.

It appears from the record that on 20.04.2018 the complainant was examined u/s. 200 of Cr.P.C. and since then on consecutive dates till this day evidence could not proceed with only due to the recurrent absence of the complainant. Lastly on 26.09.2022, considering the prolonged the pendency the matter as well as conduct of the complainant, this court was constrained to call for show cause by the complainant as to why the matter should not be dealt in accordance with law. Despite the specific direction, even today the complainant did not care to take steps.

Considering the above facts and circumstances, I think the complainant has lost his interest in this case and no fruitful purpose, except contributing one more matter to the pending matters, will be availed of by providing one more opportunity to the complainant.

I have gone through the materials on record as well as section 256(1) of the Cr.P.C. which runs as follows:

“If the summons has been issued on complaint, and on the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the Magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks it proper to adjourn the hearing of the case to some other day:

Provided that where the complainant is represented by a pleader or by the officer conducting the prosecution or where the Magistrate is of opinion that the personal attendance of the complainant is not necessary, the Magistrate may dispense with his attendance and proceed with the case”.

Considering the nature of allegation, conduct of the complaint, I am of the view that only due to the whims of the complainant, the personal liberty as guaranteed by Art. 21 of the Constitution of India, which is indifferent to the complainant and accused alike, this accused persons who is roving around this court without any fruitful purpose since the matter was fixed for evidence of the complainant, should get an order of acquittal from this case u/s. 256(1) of Cr.P.C.

Hence, it is

ORDERED

that the instant application be and the same is hereby dismissed on account of absence on the part of the complainant without any cogent reason and the accused person namely Sanjoy Sarkar is hereby acquitted u/s. 256(1) of Cr.P.C.

Sureties, if any be discharged from their respective bail bond and the accused person may be set at liberty if not wanted in any other case.

Alamats, if any be disposed of in accordance with law.

The matter is hereby disposed of.

Note in the register.

D/c by me

ACJM/Bidhannagar/North 24-Parganas

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