

SCC No. 11984/2023
State -Vs- Kamlabail

ORDER BELOW EXH. 1
Dt. 26/07/2024

As per the order of Hon'ble High Court in letter No. B-(Gen)-1001/2024/1114 Dt. 24/06/2024 and As per direction of Honble District Court Nagpur letter O.W. No. 643/JB-TW/2024 dated 26/06/2024 today is special drive for the offences in petty and unattended matters under all Acts. Perused the record. Matter is pending since last year without proceeding. The matter is of summary nature. The accused is absent and after taking so many efforts he is not procured. The offence alleged to have committed under section 65(e) Bombay Prohibition Act.

2. The investigating officer filed C.A record along with charge sheet. After perusal of detailed of C.A. report, it came to know that the sample was seized on 25/05/2023 and it was received by the laboratory for analysis on 08/06/2023. The letter issued by the I.O. to the Laboratory and the seizer panchanama also not mention that the rules seizer of liquor are followed at the time of seizer.

3. It also not shown in the panchanma that at the time of seizer the preservatives are added in seized sample. The sizer panchanama also not mention the color of seized article at the time of seizer. The C.A. report also not mention the seizer date of sample. There is big gap of the period of seizer and analysis. The report also not mention that inserting any kind of preservatives at the time of seizer in the seized muddemal which is mandatory provision as per the Rules and

regulation of seizer. The necessary information not mentioned in the report. The investigating officer also not mention why there is huge gap in between the seizer and send the sample for analysis. These are the material technical defect committed at the hands of I.O. during the investigation. The prosecution has not taken any steps in the present matter till today. The I. O. also no record the statement of any independent witness as well as the carrier. Therefore, no fruitful purpose would be served by keeping this matter pending. Even though any substance found in this case in future it case be reopen as per the direction of the Honble Apex Court. As per the Special Drive as direction from Hon'ble High Court for removing old pendency, this case is disposed of as per the legal provision. This case is fit for stopping the proceeding against the accused under section 258 of the Criminal Procedure Code. Therefore, I proceed to pass following order.

ORDER

1. Further, proceeding against the accused is hereby stopped as per section 258 of Code of Criminal Procedure.
2. Accused **Kamlabai Baburao Ankalwar** is Discharged.
3. The seized muddemal be sent to excise department for disposal.
4. The bail bond of the accused canceled/ cash security if any be forfeited and credited to the government.
5. The original police paper be retained in 'C' file for their use in the event of re-opening the case under section 300(5) of the Code of Criminal Procedure.

Date : 26/07/2024

(Smt. Sonali M. Birhari-Jagtap)
Judicial Magistrate First Class,
(Court No. 8), Nagpur.