



ORDER BELOW EXH.109 IN R.C.C. No.78/2019
(The State of Maharashtra V/s. Milind Sakharam Nawale and Other)
(CNR No.MHAH06-000449-2019)

Perused the application and record. Applicant/accused no.1 namely Milind Sakharam Nawale R/o. Tisgaon Tal. Rahata Dist. Ahmednagar has filed the present application seeking discharge from the offence punishable under section 324 of the Indian Penal Code (in short "I. P. C.") by alteration of charge under section 216 of the Code of Criminal Procedure (in short "Cr. P. C.").

2. It is further contended that, the Loni Police Station, Tal. Rahata has registered the Crime No. 4/2015 against the accused persons on 07/01/2015 for the offence punishable under section 143, 147, 149, 323, 504 and 506 of the Indian Penal Code. In the present crime charge-sheet has been filed. Charge framed against the accused persons vide Exh.31 on 29/01/2016. Thereafter, no steps have been taken by the prosecution and the case has remained pending for several years. The present case has been filed by the complainant only with the intention of harassing the accused. A civil suit between complainant and accused is pending before the Civil Court and therefore, the complainant has filed the false criminal case against the applicant/accused. He further contended that, the proceedings have been unnecessarily kept pending from the side of the prosecution, due to which the accused is being deprived of justice. The offence alleged in the case carries minimum punishment. The accused persons are senior citizens and are frequently ill therefore they are unable to attend the Court regularly. He further contended that, in the present case, a charge under section 324 of I.

P. C. has been framed against the applicant/accused no. 1. However, none of the essential ingredients of section 324 of I. P. C. are disclosed the report and this section is not attracted. Hence, applicant/accused no.1 prayed to alter the charge framed under section 324 of I. P. C. and discharge the applicant/accused no.1.

3. On the contrary Ld. A. P. P. filed his say and strongly opposed the application. He contended that, the charge-sheet filed the I.O. after investigation, he found the substance of the accused in the crime. On the basis of evidence available in the charge-sheet this court framed the charge is properly. Hence, he prayed the present application may kindly be rejected.

4. Perused the application and say thereon. Perused the record of the case. Heard both the sides at length. It is admitted position on record that charge have already been framed against the accused persons under section 143, 147, 148, 324, 323, 504, 506 read with 149 of I. P. C. and the matter has proceeded beyond the stage of framing of charge. The remedy of discharge is available to an applicant/accused no.1 only prior to framing of charge, under section 227 and 239 of the Cr. P. C., as the case may be. Once the charge is framed, the Court become functus officio in respect of the power to discharge the accused.

5. After framing of charge, the Code provides the provision for alteration or addition of charge under section 216 of Cr. P. C., if the evidence so warranted or acquittal after full trial, if the prosecution fails to establish the ingredients of the offence. In the present case, the application seeking discharge from section 324 of I.

P. C. after framing of charge is therefore not maintainable in law.
Hence, I proceed to pass the following order -

ORDER

The application Exh.109 is hereby rejected.

Place : Shirampur.
Date : 23/01/2026.

(Jitendra D. Jadhao)
Judicial Magistrate First Class,
Court No.1, Shirampur.