



ORDER AT EXH.21

1. This is an application filed by the accused for discharge u/s 239 of Cr. P.C.
2. Read the application and say filed by the Ld. APP at Exh. 22.
3. Despite sufficient opportunity and time, Ld. Adv. for the accused did not argued hence heard Ld. APP only.
4. It is submitted by the accused that, offence u/s 324, 326, 504, 506 r/w of IPC are leveled against them. Story of the informant regarding Sec. 326 is groundless, any incident of abuse has not taken place, medical certificate is of private doctor, which is not dated. Investigation is not carried out properly, there is no substantial evidence to attract Sec. 326, all the witnesses are interested and thus, accused be discharged.
5. On contrary Ld. APP opposed the application and contented that, perusal of charge-sheet prima-facie shows that, accused caused injury to the informant and other by means of wooden stick. Medical certificate issued by government hospital is also on record. Wooden sticks are seized from the accused on memorandum panchanama. Thus, there is a sufficient material to proceed against the accused and hence application be rejected.
6. Section 239 of Cr. P. C. provide that, *When accused shall be discharged. —If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.*
7. It is acknowledged principal of law that at the stage framing of charge and discharging of accused , charge-sheet and all the document sent with it including statements of witnesses recorded u/s 161 Cr.p.c. has to be considered. The section 239 of Cr.PC . does not provide for considering or looking in to documents produced by accused in his defence at this stage. The material placed on record by the prosecution must be considered at its face value for ascertaining the prim-facie case against the accused. The material on record needs to be weighed and swifted only to ascertain whether the charge the level against the accused are groundless or not.

8. Perusal of FIR prima-facie shows that, the accused caused injury to the informant and other and also to one who came to rescue on legs, hand and stomach by means of wooden stick. Medical certificate issued by government hospital Akola dated 27.02.2024 is also on record, which prim-facie shows injuries along with reason there for. Seizure of wooden stick is also on record.

9. Perusal of oral report of the informant shows the similar as mentioned in FIR. Statement of the witnesses recorded u/s 161 of Cr. P.C. are on record, which prima-facie shows that, accused have caused injury to the informant and other by means of wooden stick. Further injury certificate shows sharp fracture. This clearly shows that, elements Sec. 326 of IPC are present. Statement of the witnesses, also shows ingredients of Sec. 324, 326, 504 and 506 of IPC.

10. From the oral report, FIR, medical certificate and statement of witnesses, it comes for that, all the allegations are specific against accused. Allegations against other accused are not vague and thus, considering the reason discussed above, I am of view that, there is sufficient material to proceeding against accused for the offence is leveled against them and charge against the accused is not groundless and thus, following is the order.

ORDER

- Application is rejected.

Date : 21.05.2025

(R.R. PAKADE)
Judicial Magistrate First Class,
Court No.2, Murtizapur.

CERTIFICATE

I affirm that the contents of this P.D.F. File Order/Judgment are same, word to word, as per the original Judgment/Order.

Name of the Stenographer	S. R. Adhau
Name of the Court	J.M.F.C. (Court No.2) Murtizapur
Date of Order/Judgment	21.05.2025
Order/Judgment Signed by the P.O. On	21.05.2025
Judgment/Order uploaded on	23.05.2025