

S.T. No. 21/2019

State -Vs.- Pramod and others

**ORDER PASSED BELOW EXH. 37.**

1. The Charge-sheet is filed against the accused Pramod Ganpatrao Pohare, Sandip Anandrao Wankhede and Atmaram Shegokar for the alleged commission of offences punishable under Sections 353, 332, 324, 504, 506 read with Section 34 of the Indian Penal Code. The present application is filed by the accused No. 1 Pramod Pohare for his discharge under Section 227 of the Criminal Procedure Code.

2. It is contention of the accused No. 1 that the crime came to registered on the basis report filed by Anil Dattatray Mhetar who is working in the M.S.R.T.C. department. It is contended that the said complainant kept mum about accused no. 1 at the time of alleged report. Initially crime was registered under Section 324, 504, 506 read with Section 34, but later on the Investigation Officer made an enquiry alleged offence filed against the accused no.1. Thereafter, as per the letter on 24/04/2018 accused no. 1 was dismissed from the service, who was working as driver in S.T. department. He challenged the said notice and act of the corporation in the competent court. Thereafter, the Investigation Officer wrongly added Section 353, 332 of the Indian Penal Code against the accused No. 1. It is also contended that the accused no. 1 still is

in service of the department and there is no sufficient ground to proceed against the accused no.1. Accordingly, it is submitted that the present accused be discharged from the offices punishable under Section 353, 332 of the Indian Penal Code.

2. The learned A.P.P. filed say and strongly objected the application. On the contention that there are specific contention in the application that the accused used criminal force and voluntarily caused hurt to the informant when he discharges his duty as a public servant alongwith other accused, the statement of witness clearly shows that accused committed said crime. So the prima facie case made out against this accused. Hence, the application be rejected. At Exh. 39 the learned A.P.P. submitted written notes of arguments.

3. I have heard the arguments canvassed by both the sides at length.

4. Following points arise for my determination to which I have recorded my finding before them for the reasons discussed below.

<b>Sr. no.</b>	<b>Points</b>	<b>Findings</b>
1.	Is the accused no. 1 Pramod Ganpatrao Pohare entitled for the discharge ?	No.

2.	What order ?	As per final order.
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4. At the outset of the submission of both the sides I have carefully gone through the record and proceedings. Here it is to be noted that while canvassing the arguments on the side of the applicant/accused no. 1 it has been placed on record the order of the Labour Court along with Exh. 39 and it is pointed out that the Labour Court certain orders in complaint (ULP) No. 1/2015 whereby the said court directed to continue the services, having regard to the submission of the learned counsel for the applicant/accused no. 1 the decision of Labour Court is entirely relating to the dispute, pertinent the said act. The accused is facing the trial for the alleged commission of the offence punishable under Section 353, 332 of the Indian Penal Code with other sections. In view of the section 227 of the Criminal Procedure Code and Section 227 of the Criminal Procedure Code one has to show that :

“upon consideration of the record of the case and the documents submitted therewith, and after hearing the submission of the accused and the prosecution in this behalf the Judge considers that there is not sufficient ground for proceedings against the accused, he shall discharge the accused and record his reasons for so doing.”

5. Here case in hand firstly it is to be noted that the corporation which is particularly covers under Section 21 of the Indian Penal Code and no doubt complainant and the

accused are the employee of the corporation. So considering this material aspect one cannot say that the employee of the said corporation cannot do the offences punishable under Section 353, 332 of the IPC. Moreover, mere added of the section of the Investigation Officer I am of the view that it is well support by the contention in the report filed by Mr. Mhetar. Moreover, by FIR discloses the role attributed by the accused in commission of offence. So in such circumstances, I do not find any merit to this application. Hence, application requires to be rejected. Accordingly, I answered point no. 1 in the negative and answered point no. 2 as per final order.

**ORDER**

1. Application for discharge of accused no. 1 stands rejected.

Sd/-

(P.A. Sane)  
Additional Sessions Judge,  
Buldana.

Dt. 20/08/2022