

IN THE COURT OF DISTRICT JUDGE-1, & ASJ, GONDIA.

SESSIONS TRIAL No. 37/2022.
(CNR NO.MHGO01000482-2022)

State, PSO -VS- Ishwarprasad Zarne

ORDER BELOW EXH.03.

(Passed on this 06th day of January, 2023)

This is an application filed by applicant/accused for discharge under Sec. 227 of the Cr.P.C.

2] Heard learned advocate Ranjita Shukla for the applicant and APP. Shri Pardhi for the State. Learned advocate for the accused submits that the accused has been charge-sheeted for the offence punishable under Sec. 353, 504, 506 of IPC. It is alleged that the applicant took away the seal of the Government and affixed it on some paper and when the informant objected, the accused shouted on him and thereafter threw the seal away and abused the informant. She further submits that a day before the informant who is the Clerk of Tahsil Office came to the house of the applicant and had informed the brother of the accused to send the accused to Tahsil Office on 04/08/2021 for receiving copy of the RTI Appeal. When the accused went there he was assaulted by the informant and some other persons and threatened to kill him. The Tahsildar also did not save him. Thereafter the informant filed a false report against the accused. Though the accused

made several complaints the police failed to take cognizance and the accused was compelled to file application under Sec. 156(3) of Cr.P.C. He has placed on record all the documents along with list of document Exh.4 and submits that the applicant is falsely implicated and he be discharged.

3] I.O. has filed reply at Exh.7 and has opposed the application on the ground that the accused has assaulted the public servant. Prima facie case is made out against the accused. Four other offences registered against the accused. He has prayed for rejection of application.

4] Learned APP Shri Pardhi has opposed the application on the ground that perusal of record and statement of witnesses reveals that prima facie case is for offence punishable under Sec. 353, 504, 506 of IPC are made out against the accused. He has prayed for rejection of application.

5] Perused the F.I.R. and the statement of witnesses. There are specific allegations against the accused of having taking over the seals throwing them away and threats being given by the accused to a public servant. This shows that prima facie offence under Sec. 353, 404 & 506 of IPC are

made out against the accused. False implication and counter allegations are the defences available to the accused to be used in his defence. Enmity is a double edge for and can be used either ways. Merely because there was enmity between the accused and the informant, the cannot seek discharge. It is settled position of law that for discharge the consideration for the court is to see whether there is material evidence on record to make out the offence under sections which are impleaded against the accused. In the case in hand, there are specific allegations made by the informant as well as by the witnesses and offence under section 353, 504 & 506 of IPC are prima-facie made out against the accused. The application is devoid of any merits. Hence, I pass the following order.

ORDER

- 1] Application [Exh.03] is hereby rejected.
- 2] Application is disposed of.

Gondia.
Dated: 06.01.2023.

Sd/-*
(Adil M. Khan)
District Judge-1 & ASJ,
Gondia.