

MHJN060016332023



ORDER BELOW EXH.22

Present application is filed by accused no. 1 and 2 with the prayer to discharge them from offences leveled against them by the complainant.

CONTENTION OF ACCUSED NO. 1 AND 2

02. As per contention of the complainant offence has taken place in the year 1997,1998 and 1999. Therefore, the complaint of the complainant is not within limitation.

03. Allegations leveled against accused are vague in nature. Accused are nowhere related with transactions claimed by the complainant. The complainant is admitting execution of sale deeds.

04. Therefore, as no offence is made out against accused persons and no material to frame charge against accused is available on record, accused prayed to discharge them from the present offence.

SAY OF THE COMPLAINANT (EXH.23)

05. Application is filed only with intention to prolong the trial. All contentions raised by accused are redundant.

06. Contentions raised by the complainant are true in nature therefore, she prayed to reject the application.

07. Perused the application, say and record of the case.

08. Heard Ld. advocates for both parties. Adv. Shri. Pandit submitted that offences leveled against accused are based upon substantial evidence. Accused persons have cheated the complainant by taking disadvantage of her bonafide intention. He further relied upon documents produced by him at Exh.3, affidavits filed along with Exh.4

and 5. Therefore, he prayed to reject the application.

09. On the other hand Adv. Shri. Deshpande submitted that nothing is on record which will prove the guilt of accused. Accused are nowhere related with the contentions raised by the complainant. Therefore, he prayed to allow the application.

10. For the decision of present application following points arises for my determination on which my findings and reasons thereon are as follows:-

Sr.No.	Point for Determination	Finding
1.	Whether sufficient material is available on record to frame charge against accused?	No.
2.	Whether accused are entitled to get discharged from the offence?	No.
3.	What order?	Application is allowed

REASONS

Point No. 1 and 2;

11. As per section 245(1) of the Code of Criminal Procedure, if after taking evidence, the magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the magistrate shall discharge him. This power of discharge can be exercised by magistrate at any time before framing charge if he considers the charge to be groundless.

12. Above mentioned provision is reflecting the fact that if nothing is on record which will warrant the conviction of accused or if any charge is framed then said charge will be groundless then magistrate can discharge the accused from offences leveled against him.

13. As per complaint the complainant is having grievance against accused regarding sale deeds executed on 24.03.1997, 25.03.1997, 18.07.1998 and 14.05.1999.

14. As per contention of the complainant, accused with their dishonest common intention on their own part executed sale deeds of properties owned by the complainant and has taken signatures of the complainant fraudulently to execute said sale deeds.

15. It is further contention of complainant that for the consideration of said sale deeds accused agreed to take care of complainant and her childrens but they failed to do so.

16. As accused persons failed to obey obligation on their part the complainant registered non cognizable report with police station Bhokardan and she has also sent notice to accused.

17. Total amount of Rs. 70 to 80 lacks is yet to be recovered from accused persons. Consideration out of said sale deeds is utilized by accused for their own enrichment. Despite requesting repeatedly accused failed to obey their obligations. Therefore, present complaint is filed as per offence punishable under section 420,504,506 r/w. 34 of the Indian Penal Code.

18. Admittedly, in the present case charge is yet to be framed against accused persons. In the present case complainant has lead her evidence before charge at Exh. 18 and thereafter closed her evidence by filing pursis at Exh.19.

19. To substantiate her complaint and charge against accused persons in evidence before charge the complainant has lead her oral evidence and re-iterated content in the complaint regarding sale deeds and consideration of it. She failed to depose anything relating to Section 504 and Section 506 of the Indian Penal Code. She has also

filed documents along with list at Exh.5.

20. At Exh. 3/5, 3/6, 3/7 and 3/8 the complainant has produced sale deeds mentioned in the complaint on record. After going through those sale deeds it is seen that nowhere names of accused persons either for receiver of the consideration as well as executant of the document is mentioned over those documents.

21. For framing charge under Section 420 of the IPC the material ingredient needs to be on record is dishonest inducement for delivery of any property to any person or to make alter or destroy the whole or any part of a valuable security or anything which is signed or sealed needs to be existed.

22. As per contention of the complainant she is having grievance against the accused regarding inducement by them to her to execute those sale deeds and accused failed to obey the obligations which they have agreed to perform in favour of the complainant.

23. After bare reading of the complaint it is seen that the contentions which complainant is raising against accused persons are of civil in nature and independent civil remedy is available to the complainant to get those obligations performed from the accused persons.

24. In the case of **Indian Oil Corporation V/s. M/s. NEPC India Ltd. (2006) 6 SCC 738 Hon'ble Supreme Court** held that Criminal Law cannot be used as a tool to settle scores in commercial or contractual matters and that such a misuse amounts to abuse of process.

25. In the case of **Anukulsing V/s. State of Uttar Pradesh Criminal Appeal No.4250/2025 Hon'ble Supreme Court** held that the dispute concerning repayment of loan money and the alleged coercion in execution of documents is purely of a civil nature.

26. Therefore, considering above mentioned reasons as well principle laid down by Hon'ble Supreme Court in above mentioned cases available material on record is reflecting the fact that transactions between accused and complainant is purely of a civil nature. Even if any charge is frames against accused person and evidence available on record if remained unrebutted then also the complainant will not be successful in proving or obtaining conviction of accused persons and charge framed accused persons will remain a groundless charge.

27. Therefore, at the initial stage of the present complaint accused persons are entitled to get discharge from the offences leveled against them. Accordingly, after considering above mentioned reasons as per section 245 (1) of the Cr.P.C., I pass following order-

ORDER

1. The application is allowed.
2. Appropriate order is passed below Exh.1

Date:-20.04.2026

Place:- Bhokardan.

(Mayuresh R. Kale)

Judicial Magistrate First Class,
Bhokardan.

CERTIFICATE

I affirm that the contents of this PDF file Order/Judgment are same word to word as per the original Order/Judgment.

Name of Steno	:	G.M.Padol
Court	:	CJJD & JMFC, Bhokardan
Date	:	20.04.2026
Judgment/order signed by the Presiding Officer on	:	20.04.2026
Judgment/Order uploaded on	:	20.04.2026