



Common Order below Exhs. 69 and 87 in RCC No 157/2011

That accused No 3 filed application at Exh. 69 and accused No 4 filed application at Exh. 87 under section 239 of the Code of Criminal Procedure for discharge.

02. It is contention of the accused Nos 3 and 4 are that -

They have alleged to have committed offence punishable under sections 420, 464, 465, 467, 471 r/w. 34 of IPC and yet charge is not framed against them. That it is alleged in the complaint that accused in furtherance of their common intention obtained loan from Primary Teachers Co-operative Bank Ltd., Kolhapur knowingly that accused Nos 1 and 2 are not the members of the Bank and signed application of loan and accused No 3 was signed as guarantor knowing that accused Nos 1 and 2 are not the teachers of Zilla Parishad, Kolhapur, and by preparing false documents and rubber stamp of BDO. Accused No 4 is director of the said society.

03. It is contended that accused have prepared fabricated seal of BDO and prepared bogus certificate for obtaining loan, but actually the work of said Primary Teachers Co-operative Bank is done as per the rules and head office sanctioned loan but as the director body was changed, therefore, with ill-intention accused No 4 was made accused in this complaint but from the record no role of accused Nos 3 and 4 was found and the complaint itself shows that accused Nos 1 and 2 by preparing bogus certificate and by preparing false seal of BDO applied for membership, therefore, there is no sufficient ground against the accused Nos 3 and 4 to frame charge.

04. APP resisted the applications contending that accused Nos 3 and

4 knowingly identified and recommended and also act as surety for the loan proposal which was obtained by producing false documents. She contended that accused No 4 has identified and recommended for the sanction for loan and accused No 3 was stood as guarantor, therefore, there is sufficient ground to frame charge against the accused. Hence, prayed to reject the applications.

05. Learned Advocates for the accused submitted that documents submitted by the IO and the complaint itself shows that there is no sufficient evidence against the accused to frame charge against them. But as the Director body has changed, therefore with ill intention impleaded the accused Nos 3 and 4. Hence, prayed to discharge the accused.

06. On the other hand learned APP submitted as per her say.

07. On perusal of the record and the report lodged by Shri. Anandrao Dada Shinde on 05/09/2010 it shows prima facie that accused No 4 identified accused No 1 and 2 and recommended for sanction of loan and it is also contended prima facie that accused Nos 1 and 2 have prepared false documents showing that they are teachers and accused Nos 3 and 4 knowing that they are not members, recommended and act as a surety and that fact was disclosed at the time of transfer of record. The report also shows that in respect of loan of accused Nos 1 and 2 and the resolution shows that action be taken against the persons who are responsible. Therefore from the report it is prima facie seen that there is specific allegations against accused no.3 and 4, which shows sufficient grounds to frame charge against them. Hence, prayer of accused that there is no sufficient ground to frame charge against them is not acceptable. Hence, applications are liable to be rejected. Therefore, I pass following order -

ORDER

Applications are rejected.

Date :- 18/07/2019

(Y. M. H. Kharadi)
Chief Judicial Magistrate, Kolhapur.

I affirm that, the contents of this PDF file order are same, word to word, as per the original order

Name of the Stenographer	Sau. S.S. Gosavi
Name of the Court	Chief Judicial Magistrate, Kolhapur.
Date of Dictation	18/07/2019
Order signed by the P.O. On	19/07/2019
Order uploaded on	19/07/2019