



**ORDER BELOW EXH. 16 IN R.C.C. NO. 745/2017**  
CNR NO. MHK0030044732017

This is an application filed by the accused u/s. 245 of The Code of Criminal Procedure 1973 for discharge.

**02. The brief contention of accused is that -**

In the present case, Police of Shahupuri Police Station has registered crime as C.R. No. 495/2016 for the offence punishable u/s. 409 of the Indian penal Code, 1860 and arrested the accused on 20-12-2016 and he was released on bail. That it is alleged by the prosecution that while acting as a Customer Associates at State Bank of India Branch at Market Yard, Kolhapur, on 08-11-2016 the Government had canceled the currency notes of Rs. 1,000/- and Rs.500/- denomination. As per the directions given by the Reserve Bank of India, one person can exchange old currency to the extent of Rs. 4,000/- by submitting the prescribed form and identity proof. But accused without following the directions given by the RBI, from 10-11-2016 to 16-11-2016 exchanged Rs. 6,92,500/-. Accordingly, on the complaint of Branch Manager said crime was registered. Thus, there is no evidence in that respect and even though the I.O. demanded the documents, concerned bank has not produced the same and intimated that those documents were not available. Therefore, without any cogent evidence, accused cannot be charged. Hence, the application.

03. Ld. A.P.P. resisted the application by filing say by contending therein that the contents of accused that no evidence is produced is false. It is contended that unless and until prosecution lead his evidence and prove C.C.T.V. footage, it cannot be said that there is no prima-facie evidence against the accused. It is contended that, prosecution has relied on the documents and, on that strength, final report is filed. Hence, prayed to reject the application.

04. Perused the application and say. Heard Ld. Advocates. They submitted as per their contention.

05. Considering the submissions and the documents, it is prima-facie shows that it is alleged by the prosecution that accused has by disobeying the directions given by RBI, exchanged more than Rs. 4,000/- to per person.

06. Admittedly, accused admitted that he has acting as a Customer Associates and it is also prima-facie shows that on 08-11-2016 Government banned the currency notes of Rs. 1,000/- and Rs. 500/- denomination and prima-facie it also shows that as per the guidelines of RBI, per person can exchange the old currency upto Rs. 4,000/- only and on perusal of the documents, it shows that it is alleged that the accused has exchanged more money than the prescribed limit.

07. On perusal of the documents, it shows that the concerned I.O. called the evidence regarding software. To that said

bank intimated that software is not available. But on perusal of the other documents produced by the I.O. and the statement shows that some of the entries shown that more than Rs. 4000/- were disbursed, which is against the guidelines of RBI. It also shows that the I.O. has produced the pen drive regarding C.C.T.V. footage. Therefore, prima-facie it cannot be said that there is no evidence against the accused. But the Ld. Advocate for the accused submitted that if domestic inquiry fails against the accused, then criminal trial vitiates. But in the present case, there is no document that inquiry was made against the accused. Therefore, that submission are not acceptable. Hence, the application of accused for discharge is liable to be rejected. Hence, I pass the following order :-

**ORDER**

Application stands rejected.

Kolhapur  
Date :- 20-02-2019.

sd/-  
( 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	Sagar Ramchandra Sarnaik.
Name of the Court	Chief Judicial Magistrate, Kolhapur.
Date of Dictation	20-02-2019
Order signed by the P.O. On	20-02-2019
Order uploaded on	20-02-2019