

	<p style="text-align: center;"><u>ORDER BELOW EXH. 13</u> The State Vrs. Kabir Shyamsundar. passed on 12th February, 2024 CNR No.MHLA060005722022.</p>
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01. This is an application filed by the applicant/ accused to discharge him under Sec. 239 of the Cr.P.C. It is the contention of the applicant that, report lodged by the informant does not disclose any evidence against said accused/applicant. After going through the statement recorded during investigation, it appears that, the mother of the informant stated that, on 22/05/2021 she was at her house along with her daughter-in-law and with grand daughter. While the informant in his report stated that, his mother was not in the house on the day of incident. Therefore, there is material contradiction in between the statement of mother of informant and in report. It is their further contention that, the financial transaction took place in between mother of informant and said applicant. The applicant has also helped the mother of informant, financially. The applicant had given hand loan to mother of informant and on day of incident, when applicant went at the house of informant for demanding his money back, at that time, the mother of informant assaulted the applicant. The mother of informant is very clever and in collusion with police personnel, the said offence is registered against the applicant. The I.O. has conducted frivolous investigation and filed false charge-sheet.

02. The Ld. APP resisted application by contending that, allegation levelled against the applicant / accused is well supported by evidence.

03. Heard Ld. Counsel of the accused Shri.B.D. Jadhav, Ld. counsel of behalf of State. They both argued as per their contention in application and in reply of said application.

04. Perused record. It shows that, the informant namely **Suraj Dattatraya Chebale** lodged report against accused namely Kabir Shyamsundar Pandurang. It is his contention in the report that, on 22/05/2021 at 09.30 p.m. the neighbour namely Giri called him and told that he saw some one on roof of their house. When Giri asked about the person, informant replied that he is unaware; but he might be thief. Therefore, informant called him and other neighbours namely Ajay Patil, Sunil Giri, Suresh Jangapalle and Sadguru Bhoge. They went on the roof of their house and they saw one unknown person in the kitchen. He had spread the poisonous spray at informants eyes and assaulted informant by fists and blows and abused him in filthy language. He had broken the door of the room and also broken the glasses of windows. When he had tried to ran away, he fell down and sustained injury on his head. The neighbours asked him, his name and he told his name as 'Kabir Shyamsundar

Pandurang.' He has also threatened to kill them.

05. The I.O. has recorded the statement of neighbours of informant namely Ajay Patil, Sunil Giri, Suresh Jangapalle and Sadguru Bhoge alongwith mother of informant. All statements of above named witnesses reveals that, they all stated about the incident very well and the statements of all witnesses and informant are *prima facie* showing sufficient evidence against accused/ applicant. Though, the main objection of applicant is that, there is contradiction in between the statement of mother of informant and report lodged by the informant regarding her presence on the date of incident. But, as discussed above the other witnesses have very well stated about the incident as well as presence of mother of informant. The other objection raised by the applicant that, due to financial transaction, the informant has lodged said false report against applicant/ accused is a matter of merit needs to be decided on full fledge evidence. At this stage, from the charge-sheet filed by the I.O., there is sufficient evidence against applicant. Therefore, in such circumstances, it would not be proper to discharge him. Therefore, said application stand rejected.

Date :12-02-2024.

(A.S. Jarude)
Judicial Magistrate First Class,
(Court No.02), Ahmedpur.