

S.C.C. No.402/2021
STATE V/s INDAS SAYSING
PAWARA

ORDER PASSED BELOW EXH. 10
(Passed on: 23.02.2022)

This is an application for discharge of the accused. The Accused is charge sheeted for the offence punishable u/s. 65 (e) of the Maharashtra Prohibition Act.

2. The Accused is claiming discharge on the ground that, The I.O. has filed charge-sheet on the basis of false statement of witnesses. No offence was committed. The accused is falsely implicated in present case. The A.P.P. has given say and submitting that the I.O. has recorded the statement of the accused in his presence. The I.O. has filed charge-sheet on the basis of prima facie case.

3. Perused the application, say and record of the case. Heard Learned A.P.P. for the State and learned advocate for the accused.

4. Section 239 of the Cr. P.C. envisaged that the accused person can be discharged when the charge against the accused is groundless. The word groundless employed in the Section 239 means there was no ground for presuming that the accused is guilty. It is the duty of the Court to look into whether there is ground for presuming commission of offence or whether the charge is groundless. The Court has to see whether a prima facie case pertaining to the commission offence is made out or not.

5. After considering report of the prosecution, documents on record, argument of both the sides and material place before the Court. Moreover, it appears that the informant specifically narrated the alleged incident. Further perusal of the statements of witnesses reveals that there are sufficient grounds in charge sheet against the accused. On the face value there is reasonable basis or foundation against the accused person. In such circumstances it cannot be said that the charge against the accused is groundless as contemplated u/s. 239 of the Code of Criminal Procedure. Ground of defence cannot be ground of discharge. The application is liable to be rejected.

6. The Section 239 of the Cr.P.C. is not applicable to the present matter. The offence under Section 65 (e) are tried in view of Chapter XX of Cr.P.C. There is no provision in Chapter XX of Cr.P.C. about discharge of the accused as it is summary matter. Hence, application is rejected. Hence, I proceed to pass the following order..

ORDER

The Application is rejected.

Date: 23.02.2022

(Dipak G. Kankhare)
Judicial Magistrate First Class,
Dhadgaon.

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED ORDER/JUDGMENT.”

Mayur N. Ahirrao
NAME OF STENOGRAPHER