

R.C.C. No. 49/2021
STATE V/s RITESH DILIP VALVI
AND ANR.,

ORDER PASSED BELOW EXH.15
(Passed on: 24.02.2022)

This is an application under section 239 of the Code of Criminal Procedure filed by accused persons for discharge. Accused persons are charge-sheeted for the offence punishable under Section 354(a)(4) and 498(a) R/w 34 of the I.P.C and offence punishable under Section 67 of the Information Technology Act.

2. Pursued the application, say and record of the case. Heard Learned A.P.P. for the State and learned advocate for accused persons.

3. Learned advocate for accused persons argued that accused persons are falsely implicated in present case. There is no material to attract alleged offences. Hence, he prayed to discharge accused persons.

4. Learned APP argued that there is sufficient material to frame charge against accused persons. Hence, he prayed to reject the application.

5. Section 239 of the Cr. P.C. envisaged that, accused persons can be discharged when the charge against accused persons are groundless. The word groundless employed in the Section 239

means there was no ground for presuming that accused persons are 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.

6. 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 accused persons. On the face value there is reasonable basis or foundation against accused persons. In such circumstances it cannot be said that the charge against accused persons are groundless as contemplated under Section 239 of the Code of Criminal Procedure. Ground of defence cannot be ground of discharge. The application is liable to be rejected. Hence, I proceed to pass the following order..

ORDER

The Application is rejected.

Date:24.02.2022

(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