

R.C.C.No. 76/2020

STATE VS. KHUSHAL BOLJYA PAWARA AND ANR.,

ORDER PASSED BELOW EXH. 16

(Passed on: 10.03.2021)

This is an application under section 239 of the Code of Criminal Procedure filed by the accused for discharge. The Accused is charge sheeted for the offence punishable u/s. 354, 324, 323 and 504 R/w. 34 of the I.P.C.

2. This is an application under section 239 of the Code of Criminal Procedure filed by the accused for discharge. The Accused is charge sheeted for the offence punishable u/s. 354 and 509 of the I.P.C.

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

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

5. Section 239 of the Cr. P.C. envisaged that the accused person can be discharged when the charge against accused person are groundless. The word groundless employed in the Section 239 means there was no ground for presuming that 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.

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 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 are 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. Hence, I proceed to pass the following order..

ORDER

Application Exh. 16 is rejected.

Date: 10.03.2021

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