

MHND010024652020



**IN THE COURT OF ADDITIONAL SESSION JUDGE-3, NANDED
AT NANDED.**

Sessions Case No. 167/2020

State of Maharashtra Vs Rajesh Bhaurao Rathod

ORDER PASSED BELOW EXH. 12

1. This application has been filed by the accused seeking discharge under section 227 of the Code of Criminal Procedure, 1973 (hereinafter being referred to as 'Cr.P.C.') from the charge-sheet arising out of Crime No. 39/2020 registered at Mahur Police station, Tq. Mahur, Dist. Nanded for the offences punishable under Sections 353, 323, 504 and 506 of Indian Penal Code (hereinafter being referred to as 'I.P.C.') against the accused.

2. Facts in brief :

2.1 It is the case of prosecution that, on 13.03.2020 the informant is Lahu Bhagwan Kadam, Bus Driver, attached to MSRTC, Depot Kinwat. He reported incident alleging that, on 13.03.2020 at about 8.00 p.m. he took bus No. MH-13-CU-7021 and started proceeding from journey Kinwat to Nanded. In said bus the conductors Kailash Nivrutti Metkar, Prakash Govindrao Dabadgaonkar, Vilas Premsing Chavan and Jabir Mohammad Isaq were accompanied and other passengers were also travelling in the said bus. It is alleged that, when the informant reached near

Lakhmapur Tanda at about 9.00 p.m. that time, one car bearing TS-01-EM-1671 was overtaking the bus. When the informant blown his horn for asking side, that time, said car driver was not giving side, therefore, informant was blowing bus horn again and again. Hence, the car driver suddenly stopped the car in front of informant's bus, that time, the informant also stopped his bus. Then, the car driver asked informant as to why he blown horn and by saying so, climbed from the side of bus driver and caught hold his collar and assaulted with fists and blows. Further, said car driver used abusive language and threatened to kill the informant and thereby prevented, obstructed and deterred informant and obstructed him. The said fight was pacified by the passengers of the bus. Thereafter, offence was registered on said premise.

3. After completion of investigation, charge-sheet came to be filed against the accused and it was committed to this Court for conducting Sessions Trial.

4. It is the contention of Ld. advocate Shri. R.M. Lone for accused /applicant *inter alia* that, the incident took place on 13.03.2020. The ingredient of offence under Section 351 of IPC (assault) and section 350 (criminal force) are absent, therefore, Section 353 is not applicable. He further submitted that, at the most, Section 332 of I.P.C. relating to voluntarily causing grievous injury to the public servant is applicable. On query, he submitted that, accused was present on the spot and only slapped the informant, therefore, Section 332 is attracted. According to him, Section 332 of I.P.C. is triable by the Magistrate of the First Class.

He further submitted that, since offence u/Sec. 353 is not made out and Section 332 of IPC is made out, therefore, accused may be discharged from Section 353 of IPC and the matter may be remanded back to Ld. J.M.F.C. for holding trial of offence u/Sec. 353 and other offences. On this premise, prayed for discharge.

5. *Per contra*, learned D.G.P. Shri. R.N. Deshmukh for prosecution filed say on behalf of prosecution below Exh.20 and reiterated the allegations made in the statement of informant. He further submitted that, the grounds raised by the accused cannot be considered at this stage and requires trial. The informant was on duty and accused assaulted him, therefore, submitted that, there is sufficient material to frame charges against the accused. Hence, prayed for rejection of the application.

6. Heard, learned advocate Shri. R.N. Lone for accused/ applicant and learned D.G.P. Shri. R.N. Deshmukh for the prosecution. Gone through the discharge application, say, entire charge-sheet, and papers accompanying it.

7. After having considered the rival contentions of both sides, following points arise for my determination and I have recorded my findings along with reasons as under:-

Sr. No.	Points	Findings
1)	Whether the accused is entitled for discharge under section 227 of Cr.P.C.?	No
2)	What order?	As per final order.

AS TO POINTS NO.1 AND 2:

8. In order to decide application of discharge filed under Section 227 of Cr.P.C., Court has to consider charge-sheet and accompanying all documents submitted therein and hear submissions of accused/applicant and the prosecution.

9. It is the contention of Ld. advocate that, the bus tickets have not been produced by the investigating officer and the statements are not reliable. I find that, whether said passengers were travelling in the bus or not and be tested the time of trial and how much importance has to be attached to the bus tickets will assuming importance after examining the witnesses. Therefore, said ground cannot be considered as this Court is not expected to minutely evaluate the evidence and hold the mini trial.

10. So far as 2nd ground of discharge is concerned, it is submitted that, there is absence in the statement of informant particular portion mentioned in the statement of Kailas Metkar and submitted that, there is no mention as to how many passengers were present in the bus. In my opinion, the numbers of passengers travelling in the said bus is not definitely affect the statement or the evidence of informant. Therefore, said ground also does not assume much importance. In discharge application, it is no where case of the accused that, in said bus none of the passengers were travelling or even it is not their submission that, the said bus was empty. On date of incident, whether the passengers were travelling or not can only be decided by testifying

the informant and the conductor Kailas Metkar. At this stage, it would be very pre-mature to doubt the journey of the witnesses in the said bus.

11. Next to this, it is the contention of the Ld. advocate for the accused that, the witness Sharad Motiram Pawar, Controller of Mahur Depot after getting information of the incident went to Mahur Police Station without making endorsement or taking permission from his senior can also be tested at the time of trial. Whether such practice is there or not can be seen at the time of trial. Generally in routine practice, the superior officer goes to offer immediate help to their colleagues in difficult times. Whether his statement is reliable or not cannot be decided at this stage. In my opinion, being superior of the informant and the conductor, it was his duty to first help his colleagues in such situation. Therefore, said ground also cannot be considered.

12. And lastly, it is the contention that, the registered owner of Honda Mez car is Ankulkumar Naik and not Amitkumar Naik. Here, it can be seen that, the ownership of the said vehicle in present case is not in dispute, rather whether accused was present in his car at the time of incident will be considered. Therefore, merely because some one is the owner of car which is in possession of accused cannot be ground to discharge him from the present case.

13. Overall, after taking into account all the aspects, and more particularly, when the Ld. advocate has admitted that, the accused has merely assaulted the informant, therefore, Section

353 of I.P.C. cannot be attracted is not acceptable. The reason is that, stopping ST bus carrying passengers on the road suddenly, definitely, involves use of criminal force coupled with the fact that, the accused after stopping his car, went to the driver side of bus wherein the informant was sitting and after climbing said side caught hold the collar of informant and assaulted him with fists and blows.

14. For the application of Section 353 of I.P.C. there is no necessity of having any physical injury. So far offence u/Sec. 323 IPC is concerned, it can be seen that, there are allegation of assault with fists and blows on the person of informant. So also the report is also discloses that, the accused used abusive language and threatened to kill the informant and obstructed the informant while discharging his duties as such public servant. Therefore, in my opinion, there is sufficient material to frame the charges and make accused to face the out come of trial.

15. In addition to this, there are statements of witnesses namely Kailas Metkar-the bus conductor and the passengers namely Vilas Premising Chavan, Shaikh Jabir Shaikh Isaq, Prakash Govindrao Dabadgaonkar and statement of Sharad Motiram Pawar – the controller MSRTC Mahur Depot shows that, involvement of the present accused in the alleged crime.

16. In addition to this, there is a statement of one Amitkumar Ishwar Naik dated 22.03.2020 which shows that, on 13.03.2020 had handed over the Honda Amez car bearing No. TS-01-EM-1671 was handed over to present accused. Therefore, it

can be safely presumed that, the accused was in possession of said car used in the commission of the crime on 13.03.2020. Therefore, on that count also the ground of discharge as discussed herein above cannot be considered.

17. Therefore, after considering entire record, I find that, the ingredients of offence punishable under Section 353, 323, 504 and 506 of I.P.C. are clearly made out against the accused and is sufficient to put accused face trial after framing of the charges. In my opinion, unless and until full-fledged trial is held, above grounds cannot be judged. Therefore, present accused/applicant has failed to make out his case for discharge under Section 227 of Cr.P.C. In the view of the matter, **I answered point No.1 in the negative and in response to point No. 2,** I proceed to pass following order-

ORDER

1)	The application Exh.12 stands rejected.
2)	Matter be listed for hearing before charge.
	(Dictated and pronounced in open court)

Date: 22.01.2026

Sd/-
(T.S. Solankar)
Additional Sessions Judge-3,
Nanded.

Certificate

I affirm that the contents of this P.D.F.file Judgment are same word to word, as per the original judgment.

Name of Stenographer	:	B.R. Khindre, Steno Grade-1
Court Name	:	Dist Judge-3 and Addl. Sessions Judge, Nanded.
Date of Order/Judgment	:	22.01.2026
Judgment signed by Presiding officer	:	22.01.2026
Judgment uploaded on	:	22.01.2026

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