

Order Passed Below Exh.8 in R.C.C.No.1199/2019
[The State of Maharashtra vs. Anil Ramnayan Bharti]

This application is filed by accused under section 239 of the Code of Criminal Procedure.

2] The contents in the application in short are as follows:-

The present charge-sheet is filed for the offence punishable under section 498A, 323, 506 and 504 of the Indian Penal Code against the accused. As per contention of accused the allegations made by the complainant regarding physical and mental abuse are false. The complainant herself on having a boy child and threatened to leave for her parents home, if the applicant did not agree. He further stated that, complainant has made unsubstantiated allegations regarding the applicants alleged relationship with two women namely Pradya and Amrapali. There is no incident where he insulted to the complainant. There is no sufficient grounds for proceeding with the charges. The charge-sheet filed against the said accused is baseless and vague and hence, he may be discharged.

3] The Ld. APP by filing his say resisted the application. According to him prima-facie from the contention of complainant and statement of witnesses, it appears that accused has mentally and physically harassed complainant. The accused is not entitled for the relief of discharge and hence, application may be rejected.

4] Heard Ld. Advocate for accused and Ld. APP. They argued as per their application and say respectively. I have gone through the

documents produced alongwith the charge-sheet. After perusing the complaint and statements of the witnesses recorded during investigation, it reveals that the complainant and witnesses has specifically stated about how accused intentionally harass complainant to meet his demand.

5] Section 239 of Cr.P.C. provides that if upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused and after giving the prosecution and the accused an opportunity of being heard if the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused and record his reasons for so doing. The plain meaning of expression “groundless” shows that no reasonable person can come to the conclusion that there was/is any ground whatsoever to sustain the charge against the accused.

6] Further, the plain reading of the provision of section 239 of Cr.P.C. shows that on the basis of the police report and documents sent with it under section 173 of Cr.P.C. only it is for this Court to see whether the charge against the present accused to be a groundless or not. Though the said provision provides opportunity of hearing needs to be given to the accused as well as prosecution, but the overall provision shows that the said opportunity of hearing is confined to the police report and the documents sent along with it under section 173 of Cr.P.C. So, the Court cannot go beyond the charge-sheet and documents produced alongwith it. The documents, statements produced with

charge-sheet reveals the role of accused and how he committed mental and physical harassment of the accused. Further, at this stage of the matter, the case of the prosecution cannot be decided on merits. If that application is considered at this stage, then, it will amount the decision of the case, which is not expected under section 239 of Cr.P.C. At this stage, as this Court is required to see whether ground for presuming commission of offence exists or whether the charge is groundless or whether a *prima-facie* case pertaining to the commission of the offence is made out or not. After perusing the first information report and complaint, it appears that there are specific allegations about the harassment against the accused.

7] In such circumstances, when there are specific allegations against the present accused, it cannot be said that the charge against him would be groundless. The question as to whether charge framed against the accused will be proved or not is a question of merits and cannot be decided at this stage. In such circumstances, unless the matter is decided on merits, only on the ground that false allegation made against him, it cannot be considered that the charge levelled against the present accused is groundless, vague and he is entitled to discharge. Hence, I proceed to pass the following order:-

ORDER

The application at Exh.08 stands rejected.

Pimpari
Dt.03/02/2025

Sd/-
(T. S. Mahadik)
Judicial Magistrate, First Class,
Pimpri