

CNR No. MHPU- 2300-0725-2024	State Vs. Arun Hanumant Chikhale
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OREDR BELOW EXH.14

Accused **Mr. Arun Hanumant Chikhale** has filed present application U/s. 239 of Cr.PC. Ld. APP has filed her say below Exh. 17.

2. He has contended that, the offence punishable U/s. 201, 381, 406, 420 r/w. Section 34 of Indian Penal Code and U/s. 43, 66 of the Information Technology Act, 2000 are not made out prima-facie from the alleged chargesheet filed by the prosecution. Entire chargesheet does not disclose the ingredients of the alleged offences and it is merely an abuse of process of law and wasting of the valuable time of judicious system. Applicant was appointed as production manager since 21/09/1996. He was working with the informant company i.e. M/s. Kalyani Maxion Wheels Pvt. Ltd. It is alleged in the F.I.R. that, the applicant was cheating since his joining of employment till the filing of the F.I.R. The informant came to know about in the year 2023, that informant's company loss of Rs. 30 Crore due to the alleged act of the applicant, which itself apparently creates the doubt about the present F.I.R is false and concocted. The informant by filing the false and concocted F.I.R to malings carrier and reputation of the applicant. The allegations are baseless and without substantial evidence. Hence, the applicant deserves to be discharge from the present criminal proceeding.

3. He has further contended that, the applicant has opened company in his wife's namely M/s. Finetech Robotic Automation and Solutions Partnership and by misusing secret information of the informant's company, the applicant caused 30 Crore loss to the informant since 1996 till filing of the F.I.R. i.e from his date of join the informant's

company. It is also admitted fact and reveals from the investigation as well as from the chargesheet that the said partnership firm namely M/s. Finetech Robotic Automation's and solutions was incorporated on 01/11/2022 having registered no. 27AAIFF6603NIZ3. There is no substance that the applicant had misused any kind of secret information of the informant company and caused loss of Rs. 30 Crore to it. The informant has deliberately removed the applicant after the continuation of 27 yrs of service by adopting this false F.I.R. and under the unfair practice and under the disguised of the false complaint. The complainant was intending to remove the applicant from service but, he was not having any ground to remove him from service. Therefore, there is no case against the applicant.

4. He has further contended that, applicant was joined as Technician to production manager and thereafter the informant company has promoted the applicant from time to time after his satisfactory service. During his tenure of his employment he got increments time to time. Now, the informant has come with the case that the applicant had misused the secret information which was used for the manufacturing of the Steel Wheels. In the entire chargesheet there is nothing on record to show that, the applicant as well as partnership have manufactured the Steel Wheel or selling the same product across the market of the informant and its competitive company. Therefore, it is illegal practice to remove the senior employee without following due procedure of law. He has further contended that, the partnership which was incorporated on 01/11/2022 is nothing to do with the manufacturing of the Steel Wheels. It is completely false case of the informant as well as prosecution that the said partnership had theft of secret information and caused loss to the informant company. Moreover, there is no single evidence which shows in the chargesheet that

the said partnership is involved in the manufacturing of the Steel Wheels.

5. He has further contended that, the said partnership is incorporated on 01/11/2022 is nothing to do with manufacture of the Steel Wheels. The informant has just trying to malign the carrier of the applicant and illegally removed from his job. During investigation nothing was seized from the applicant as well as other co-accused which shows that, nothing was manufactured like Steel Wheels at the instance of the applicant. The seized properties are within the premises of the informant company and the document which are annexed with the chargesheet are nothing to do with the manufacturing of the Steel Wheel.

6. He has further contended that, the informant has alleged that, the applicant misused the secret information for his personal profit and caused huge loss to the informant company. But, pursuance to the said fact the informant has not given the balance sheet of the company and also not shown from whom of the competitive company, the applicant has received the money against the design of Steel Wheel as well as manufacturing of the same. If the company put to huge loss due to the act of the applicant and same would have been reflected in the balance sheet of the informant company then it is purely Civil as well as Commercial Litigation. The complainant has given criminal color and dragged the applicant in criminal prosecution without iota of evidence.

7. It is further contended that, it is admitted that the one of the contract basis employee i.e Mr. Manoj Laxhman Bhodhale had installed robotic machine and programme which is nothing to do with the manufacturing of the Steel Wheel and he was not in the array of the accused but made as witness at the instance of the informant. It is the case

of the informant that the said partnership has paid the amount for his work which he did in the competitive company Mrs. Steel Strip Wheel Limited, at Chennai. The informant further came to know that the applicant and co-accused had taken leave and visited the competitive company i.e M/s. Steel Strip Wheel Limited and caused huge loss just in two visit in the year 2022 without showing which secret information shared with the said competitive company and how many Steel Wheels were manufactured at instance of the applicant and co-accused. The informant had given the incomplete information with the Investigation Officer as well as Investigation Officer has not investigated throughly the case as nothing is annexed in the charge-sheet for the said allegation.

8. It is further contended that, the informant has given a tentative amount of Rs. 30 Crores and made false propaganda for the same. During the investigation the Investigation Officer has not gone thoroughly into the true facts and files the charge-sheet mere recording the statement which are nothing to do with the calculation of the alleged amount of Rs. 30 Crores. Hence, Investigation Officer and Officer have not justifiable evidence or prima-facie case against present accused. Even the Investigation Officer has not taken audit report for the alleged time period from the informant to file the charge-sheet. The I.O. has filed the charge-sheet very mechanical manner which just and abuse of process of law and wasting valuable time of the Court.

9. He has further contended that, Investigation Officer has not considered the partnership of the applicants wife has business of automation and installation which nothing to do with the design and manufacturing of the informants company Steel Wheel. The automation is just programming of machine which gives middle portion of work by

processing unit and nothing to do with the manufacturing of the Steel Wheel of the informant company. Therefore, the informant mere on the baseless information of partnership of applicants wife has filed this false F.I.R. and malinged the reputation of the applicant.

10. He has further contended that, the Investigation Officer has prepared seizure panchnama and spot panchnama under the supervision of the informant and not in presence of the applicant and co-accused as both panchnama are not bearing the signature of applicant and co-accused. Hence, the investigation is not completed as per the law. It is pertinent to note that, the company E-mail I.D. and Data from the said E-mail I.D. of the applicant not show any communication of the secret information of the informant company. It is simply allegation and no substantial evidence is available in the charge-sheet against the applicant. The employee Mr. Bodhale of the company is the employee on contract basis and he has contracts with the other company also. The work of this employees is only for repairing of wiring in machine and nothing to do with the manufacturing of Steel Wheel. Applicant and another co-accuse were on leave together and visited together are not the grounds to make them culprit in the criminal proceeding. Informant company has independent Post Officer i.e Mr. B. H. Jadhav in the company and who has access to supervise over the act of login I.D of the applicant and other co-accused. It is pertinent to note that, in the entire charge-sheet the informant as well as I.O. has nothing brought against applicant that, he has involved in any company for the same employment, which he was doing with the employment company.

11. He has further contended that, all the witnesses in the present case are interested in serving in the informant company and they are

employees of the informant company. In the entire chargesheet, the Investigation Officer has not recorded the statement of a single independent witness, who would support the allegation of the informant. So, the evidence brought before the Court by the I.O. is not prima-facie sufficient to invoke the applicant with the crime. None of the witnesses is independent witness of incident. The informant had made her own mind made story, on which the applicant falsely implicated in the case. The prosecution has not brought the sufficient evidence direct or circumstantial evidence to frame charge against the present applicant. Hence, applicant may kindly be discharge in the present crime.

12. On the other hand, Ld. APP has filed her say below Exh. 17 and submitted that, upon perusal of the chargesheet and material on record it is evident that, there is a prima-facie case made out against the accused. The allegations disclosed commission of offence U/s. 420, 406, 381, 201 r/w. Section 34 of Indian Penal Code and Section 42 and 66 of Information Technology Act which is serious and non-bailable offences. The documents and evidence collected during investigation (Including E-mail records) company audit report and statements of the witnesses prima-facie prove the direct involvement of accused number 2 in the offence.

13. She has further submitted that, as per F.I.R. during company audit report dated 25/05/2023 serious financial irregularities were found. Fraudulents act's included unauthorized sharing of confidential company information, use of E-mail I.D and manipulation of company record. Present applicant and co-accused have sold secret information to competitive party namely Steel Strips Wheel Limited at Chennai. The audit date 25/05/2023 has revealed serious financial irregularities and

fraudulent activities committed by accused no. 2 in connivance with other co-accused, causing wrongful loss approximately worth of Rs. 30 Crore to the company.

14. She has further submitted that, the contention of accused no. 2 that no case is made out, is baseless. At the stage of discharge the Court is only required to see whether there is prima-facie case or strong suspicion circumstances against the accused. The material on record is sufficient for framing of charge against the accused. After completion of investigation, Investigation Officer has filed chargesheet against present accused. As per section 34 of I.P.C, Criminal Act done by several person in furtherance of their common intention each of them is liable for the act done by him alone. Hence, she has prayed for rejection of present application.

15. Points arise for determination along with findings and reasons thereon are as under :-

Sr. No.	Points	Findings
1	Whether accused Mr. Arun Hanumant Chikhale has prima-facie made out a case for discharge ?	No.
2	What order ?	Application is rejected.

REASONS

AS TO POINT NO. 1 AND 2 :-

16. It is relevant to note the provision of Section 239 of Criminal Procedure Code which provides that, if upon considering the police report

and the documents sent with u/s. 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the chargesheet the accused to be groundless, he shall discharge the accused and record his reasons for so doing.

17. At the stage of framing of charge the Court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom, taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the Court is not expected to go deep into the probative value of the material on record. What needs to be consider is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence.

18. Heard. Perused application and say. On perusal of record it is appeared that, offence bearing Cr No. 332/2023 was registered with Mahalunge M.I.D.C. Police Station Pimiri Chinchwad for the offence punishable U/s. 201, 381, 406, 420 r/w. Section 34 of Indian Penal Code and Section 43 and 66 of Information Technology Act. The present applicant along with other co-accused have stolen secret data by misusing their official position in the informant company and provide to rival company for the tune of which alleged rival company. The charge-sheet clearly close that the involvement of present accused in the crime. The present applicant along with other co-accused put the informant company

to loss approximately net worth of Rs. 30 Crores during the period between 1996 to till filing of F.I.R.

19. Furthermore during investigation, Investigation Officer recorded the statement of number of witnesses, which clearly discloses the involvement of present accused in the crime. Though seized properties are within the premises of informant company but, charge-sheet discloses the prima-facie involvement of present accused in the crime. It is relevant to note that, huge amount i.e Rs. 30 Crores loss to the informant company. The said amount is very huge amount. Further, charge-sheet has been filed against present accused is sufficient material for framing of charge against present applicant. Hence, there is no reason to discharge the present accused. Prima-facie on perusal of charge-sheet there is sufficient material to frame the charge against the accused. Hence, the application is liable to be rejected. Hence, I answer point no. 1 in negative and in answer to point no. 2 I proceed to pass the following order :-

ORDER

1. The application below **Exh. 14** is hereby rejected.
2. Keep matter for framing of charge against the accused.

Dated: 06/12/2025

(Smt. J. C. Gupta)
Judicial Magistrate First Class,
(Court No. 2), Khed -Rajgunagar