



S.C.C./452/2024

**The State of Maharashtra Through Narayangaon Police station Vs.
Goraksh**

**COMMON ORDER ORDER BELOW EXHIBIT NOS.21 AND 23
(Passed On 11/08/2026)**

01. These applications have been filed by accused nos.1 to 4 for discharge. Accused states that, they have been charge sheeted for the offence punishable under section 341 R/w 34 of the Indian Penal Code. The way alleged to be obstructed is not a private or public way. Accused are the owners of this property. Therefore there is no question of unlawful restraint.

02. APP opposed the application. He contended that, there is no provision of discharge in a summons case. There is strong evidence against the accused. He requested to reject the application.

03. Heard Mr. S. D. Tambe for accused and Mr. M. S. Ghodke for the prosecution.

04. Accused have been charge sheeted for the offence punishable under section 341 R/w 34 of the Indian Penal Code. It is alleged that, on 25/04/2022, when the Circle officer was executing the order of the Tahsildar to remove the obstructions on the closed way, accused arrived and said "We will not let the road to be open". Thereafter, accused Goraksha stood in front of the Tractor and said "Don't take Tractor through my farm". These are the allegation against accused. The charge sheet and the documents filed along with the same, show that, there are only oral statement of the

witnesses on the record. No document as to the ownership of alleged obstructed Way has been filed on the record. In these circumstances, even if it is accepted as true that, accused obstructed the Way, it cannot be presumed that, it was a Public way or private way of the informant. So, there is no question of wrongful restraint as defined in section 339 of the Indian Penal Code. In these circumstances, even if

05. Admittedly, there is no provision of discharge in a summons case. However, in *Amit Sibal Vs Arvind Kejriwal* the Hon'ble Delhi High Court held that, *the Magistrate has the power to hear the accused at the time of explanation of substance of the accusation, and if no offence is there out, to drop the proceedings against him at that stage itself, and the Court need not, in all cases, take the matter to a full trial.*

06. Considering the facts of the case and the law laid down by Hon,ble High Court in the above case, the present proceeding is liable to be dropped. Hence, I pass following order.

ORDER

- . The proceeding is dropped against accused.
- . Accused **Goraksha Maruti Gaikwad, Kusim Goraksha Gaikwad, Yadnesh Goraksha Gaikwad** and **Komal Goraksha Gaikwad** are discharged from the offence punishable under section 341 R/w 34 of the Indian Penal Code.
- . Order in respect of the disposal of the case be passed below exhibit no.1

Junnar
Date: 11/08/2026

(**Anant Himmatrao Bajad**)
Judicial Magistrate First Class, Junnar