

MHRG030000862020



**Reg. Cri. Case No. 83/2020**

(Sheshrao Baburao Suryawanshi, Asst. Police Commissioner, Panvel Vs. Mahesh Ratan Baladi)

**CNR No. MHRG030000862020**

**:: ORDER BELOW EXH.01 IN R.C.C. NO. 83/2020 ::**

01. Perused complaint, evidence of the complainant Exh. 19 and documentary evidence. Heard learned A.P.P. and advocate of the accused on the point of framing of charge or to discharge the accused vide section 245(1) of the Code of Criminal Procedure.

02. Today, the matter is fixed for order on the point of framing of charge. I have perused the record. My predecessor had passed an order below Exh. 1 on 17/10/2022 to proceed with framing of charge against the accused under section 246(1) of the Code of Criminal Procedure. The said order of my predecessor was challenged before the Hon'ble Sessions Court by filing Criminal Revision Application No. 29/2022. The Hon'ble Sessions Court allowed the revision application and set aside the order dated 17/10/2022. The Hon'ble Sessions Court further granted liberty to proceed with the examination of further witnesses under Section 244 of the Code of Criminal Procedure.

03. I have perused the order of the Hon'ble Sessions Court on the point of taking cognizance and the authority of the

complainant to file the present case under Section 19(a) of the Noise Pollution (Regulation and Control) Rules, 2000. The Hon'ble Sessions Court has held that the complaint was filed by the Assistant Commissioner of Police, who is equivalent in rank to a Deputy Superintendent of Police, and therefore, the taking of cognizance by the learned Trial Court without issuing notice within 60 days was proper. In view of the said finding, there is no necessity to re-evaluate the evidence on the point of taking cognizance. At present, the Court is required to consider only whether there is sufficient evidence on record to proceed with the framing of charge against the accused.

04. As per Section 245 of the Code of Criminal Procedure, if, upon taking all the evidence referred to in section 244, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge the accused.

05. Therefore, for framing of charge, there must be sufficient evidence on record which, if unrebutted, would warrant conviction.

06. In the present case, the prosecution has adduced the evidence of four witnesses. The prosecution has proved the complaint at Exh. 1. Further, from the evidence of PW-3 and PW-4, it appears that the prosecution has proved the documents, namely the reports indicating the level of noise pollution. Upon perusal of Exh. No. 50 to 54, it appears that the noise levels

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were above the permissible limits, as deposed by the complainant. Therefore, if this evidence remains unrebutted, it would warrant conviction. Considering the evidence of all the witnesses, it appears that there is sufficient evidence on record to frame charge against the accused. Hence, I pass the following order.

**:: ORDER ::**

Proceed to frame charge against the accused vide section 246(1) of the Code of Criminal Procedure.

Alibag.

Date : **19/12/2025**.

( **M. B. Attar** )

Chief Judicial Magistrate,  
Raigad Alibag