

MHRG030012462022



**R.C.C. No. 131/2022**

(The State through Mandwa Sagari Police  
Station Vs. Vasant Balu Patil)

CNR No. MHRG030012462022

**:: ORDER BELOW EXH. 15 ::**

Perused application and reply given by the learned Spl. A.P.P. at Exh. 21. Heard advocate of the accused and learned Spl. A.P.P.

02. Accused No. 06 Ramesh Hiranand Kundanmal is praying to discharge him. The learned Spl. A.P.P. strongly objected it.

03. The accused is charge-sheeted for the offences punishable under sections 143, 447, 427, 435 and 506 of the Indian Penal Code. While dealing with application, filed u/s 239 of the Code of Criminal Procedure ('the Code' in short) only the police report, materials produced along with it and the evidence, if any, adduced by the accused, needs to be taken into consideration. In our case, the accused has not adduced evidence therefore only the police report and the materials produced along with it can be looked into.

04. The application is running into several pages which deals with history of dispute and defence of the accused. These

facts do not play role in the application of discharge. I have perused report given by the informant as well as statements of the witnesses recorded during investigation and other materials. In report, it is clearly averred that the accused and other villagers were destroying trees by making encroachment on the land of the informant. In his supplementary statement also he has stated the same thing. Witness Sanjay Sadanand Patil in his supplementary statement dated 31/05/2022 stated that villagers and panch persons cut down the trees and set them ablaze. He also stated that these persons threatened the informant and he came to know that the informant lodged the report of the incident. Other witnesses stated that the informant told them that the villagers encroached his land, destroyed trees over there and committed mischief.

05. The investigation officer after investigation submitted charge-sheet against this accused. In report as well as supplementary statement of the informant Mohan Hirachand Shaha, it appears *prima facie* that this accused is involved in the commission of the offence. Even in statement of other witnesses, villagers have committed the offence, have averred, now during trial that is to be seen that whether this accused was involved or not. There is nothing found on record that the presence of the accused was not there at that relevant time.

06. As per section 239 of the Code, it is necessary that the magistrate shall satisfy himself that the charges leveled against the accused are groundless. However, as I observed

above, the charges leveled against the present accused are not found groundless. Therefore, he is not entitled for the benefit of discharge and the application deserves to be rejected. Accordingly, I pass the following order :

**:: ORDER ::**

The application is rejected.

Alibag.  
Date : **04/01/2024**.

sd/-  
( **S.W. Ugale** )  
Chief Judicial Magistrate,  
Raigad Alibag