

**MHRG110010072021**



**ORDER BELOW EXH. 12 IN R. C. C. NO. 143/2021**  
**(PASSED ON 10.08.2023)**

This is an application filed for discharge vide Section 239 of Code of Criminal Procedure.

2. It is contended that, the anticipatory bail is granted by the Hon'ble District Court, Mangaon. Thereafter, the investigating officer has completed investigation and filed charge-sheet before this court under section 354-A, D and 506 of the Indian Penal Code. There is no evidence against the accused for framing charge. The accused has not committed any offence. There is no evidence produced alongwith charge-sheet which shows that, the accused has outraged modesty of the informant and committed misbehavior with the informant. Hence, pray to grant application.

3. Learned A. P. P. filed say and submitted that, there is sufficient material on record which shows that, role of accused well founded. The present offence is against woman. There is sufficient material to proceed matter against accused. Accordingly, pray to reject the application

4. Heard both sides at considerable length. Perused the case record.

5. At the stage of framing of charge, the court has to prima-facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the material produced are sufficient or not for convicting the accused. At the stage of framing of charge, roving and fishing inquiry is impermissible. If the contention of the accused is accepted, there would be a mini trial at the stage of framing of charge. That would defeat the object of the Code of Criminal Procedure.

6. It is settled law that, the Court is not expected to go deep of the probative value of the material on record what needs to be considered is whether a ground for presuming that the alleged offence has been committed. The existence of factual ingredients constituting the offence to frame the charge.

7. It is well settled law that at the stage of framing of the charges, no roving enquiry is to be made nor the pros and cons of the materials could be weighed in detail as it would tantamount to a mini trial and such is not in the scheme of the code of Criminal Procedure. The reason for this is that the prosecution ought to be allowed to bring its evidence at the trial and the case ought not to be shut out at the threshold when there is reasonable material for holding trial.

8. In the present application, it is the contention of the applicant that allegations are false and the complainant has given complaint regarding official dispute. There is no sufficient

evidence against him for framing charge. Hence, the offence under section 354-A, D and 506 of the Indian Penal Code are not made out against the applicant.

9. On perused statement of informant and witnesses, it is it appears that, the informant and witnesses specifically mentioned act of the applicant. No doubt that those are the allegations which are required to be proved by the prosecution beyond the shadow of reasonable doubt. But those allegations are sufficient to frame charge against the applicant. The applicant and informant both are doing job in Police Department.

10. Whether the accused has committed above said offence or not ? This question needs full fledged trial and evidence. This is not the stage to go into the details and merits of the case and the evidence. Whatever, will be final judgment of the case.

11. As per the police report and documents send with it vide Section 173 of the Code of Criminal Procedure, it appears that prima-facie there is sufficient material and grounds to frame charge against applicant. Therefore, the application liable to be rejected. Hence, I proceed to following order.

**ORDER**

Application (Exh. 12) is hereby rejected.

Mangaon,  
Date : 10.08.2023

(G. C. Fulzalke)  
Judicial Magistrate, First Class,  
Mangaon, Dist. Raigad.