

MHRG140001372022



S.C.C./32/2022

**State of Maharashtra Vs. Madhuakr Padmakar Thakur**

**ORDER BELOW EXH-9**

1. This is an application filed by the accused praying for discharge from the present case on the ground that the complaint is barred by limitation.

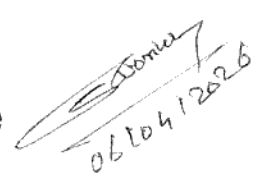
2. The accused contends that the present complaint is filed for the offence punishable under Section 26(1) of the Indian Forest Act on 14.01.2022. The Court took cognizance and issued process against the accused vide order dated 09.02.2022. The accused appeared and secured bail. It is averred that upon perusal of the complaint, the alleged incident is dated 19.11.2018. For the alleged offence, the punishment prescribed is up to 6 months imprisonment or with fine which may extend to 500 rupees. The accused submits that the complaint was required to be presented within the statutory limitation period, but it has been filed after a delay of 4 years, 9 months, and 4 days. Hence, the accused has prayed to be discharged.

3. The Learned Assistant Public Prosecutor (APP) filed a

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06/04/2026

reply (say) opposing the application. The Learned APP contended that prior to the registration of the case, an office objection was raised regarding the delay in filing. The say of the Forest Department was called, and after considering the same, the predecessor of this Court passed an order on 31.01.2022 holding that the complaint is within limitation. Hence, it is submitted that it is impermissible in law to set aside that prior order at this stage.

4. I have carefully perused the application, the say filed by the Learned APP, and the entire record of the case. The record categorically reveals that the alleged offence is dated 19.11.2018. It is also a matter of record that an office objection was previously raised regarding the point of limitation before the issuance of process. My learned predecessor, after due application of mind, passed a specific order dated 31.01.2022, wherein it was held that the complaint is within limitation. The learned predecessor observed that as per Section 470 of the Code of Criminal Procedure (Cr.P.C.), the period required for obtaining the requisite sanction can be excluded. Following this judicial determination, the process was issued against the accused on 09.02.2022. It is a well-settled principle of law, enshrined under Section 362 of the Cr.P.C., that a criminal court cannot review or alter its own final order or judgment once it is signed, except to correct a clerical or arithmetical error. The Hon'ble Supreme Court of India in the landmark case of **Adalat**

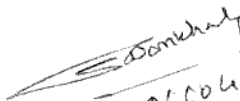
  
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**Prasad vs. Rooplal Jindal, (2004) 7 SCC 338**, has categorically held that the Magistrate has no jurisdiction to recall the order issuing summons. Entertaining the present application for discharge purely on the ground of limitation would effectively amount to reviewing the judicial order dated 31.01.2022 passed by my learned predecessor. Such a review is explicitly barred by law. If the accused is aggrieved by the order dated 31.01.2022 condoning the delay or the order issuing process dated 09.02.2022, the appropriate remedy lies in approaching the competent Revisional Court or the Hon'ble High Court, and not by filing a discharge application before this very same Court on an already adjudicated point. Thus, the present application is legally not maintainable and is devoid of merits. Hence, I proceed to pass following order;

**ORDER**

- (i) This application for discharge filed by the accused is hereby rejected.
- (ii) The matter shall proceed further as per law.
- (iii) No order as to costs.

Date : 06.04.2026

  
06.04.2026  
S. P. Wankhade  
Judicial Magistrate First Class,  
Court No-1, Uran.