

MHRG170015532019



ORDER BELOW EXH. 28
IN SPECIAL (ATROCITY) CASE No.68/2019
THE STATE OF MAHARASHTRA V/S. GANESH VASUDEO PATIL
AND OTHERS
(PASSED ON 27th DAY OF FEBRUARY, 2024)

This application is on behalf of applicant/accused No.2- Santosh Vinod Chalke vide Section 227 of the Code of Criminal Procedure to discharge him from the offences punishable under Section 307, 326, 323, 143, 147, 148, 149, 504, 427 of the Indian Penal Code, Section 37(1), 135 of Maharashtra Police Act, Section 3(1)(10), 3(2)(va), 6 of the Scheduled Castes, Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 7 of the Protection of the Civil Rights Act.

2. This application is strongly opposed on behalf of prosecution.

3. Points for the determination and my findings thereon for the reasons stated below ;

SR. NO.	POINTS	FINDINGS
I.	Whether grounds are justified to discharge applicant/accused No.2- Santosh Vinod Chalke vide Section 227 of the Code of Criminal Procedure from the aforesaid offences?	No.

II.	What Order ?	The application is Dismissed.
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REASONS

4. Perused application, say filed. Heard learned advocate for the applicant/accused Shri.A.S.Bangera and learned A.P.P Shri.C.Y.Patil for prosecution.

AS TO POINTS NO. I AND II :

BRIEF FACTS OF PROSECUTION :

5. The present prosecution is under Section 307, 326, 323, 143, 147, 148, 149, 504, 427 of the Indian Penal Code, Section 37(1), 135 of Maharashtra Police Act, Section 3(1)(10), 3(2)(va), 6 of the Scheduled Castes, Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 7 of the Protection of the Civil Rights Act. According to prosecution, the incident took place on 13.11.2014 at 8.00 p.m. on account of invoice of the dinner at a hotel/Dhaba. The incident further took place at 12.30 a.m. on 14.11.2014, that time present accused and others have hit to the injured by iron rod. The persons present over there rescued the quarrel, that time also the witness was hit by the iron rod.

WHETHER GROUNDS FOR DISCHARGE ARE MADE OUT ?

6. On the backdrop of this FIR, the investigating officer carried investigation and charge-sheeted to the accused. The present applicant is the accused No.2 and he presented application for discharge on the ground that there is no sufficient evidence against him. He is falsely implicated in the crime. The prosecution objected on the ground that the statements of eye witnesses and statement vide Section 164 of the Code of Criminal Procedure reveals involvement of this applicant. There is sufficient evidence against this applicant to frame the charge.

7. The present incident was of the year 2014 and initially the present Session trial registered in the year 2015 and re-numbered in the year 2019. The trial is pending for framing charge. The trial is of more than 10 years old. It is common practice that whenever the matter listed for framing charge, then in that eventuality to present application for discharge with a sole motive to protract the matter.

8. On perusal of the charge-sheet, it appears involvement of applicant and sufficient material against him to frame the charge. The accused No.2 does not deserve for discharge. I answer Point No.I in the negative. With this, I pass following order;

ORDER

1.	The application for discharge of applicant/accused No.2-Santosh Vinod Chalke vide Exh.No.28 vide Section 227 of the Code of Criminal Procedure is dismissed.
2.	The matter be listed for framing charge against accused vide Section 228 of the Code of Criminal Procedure.
3.	The matter be listed for framing charge after a period of four weeks time, in order to provide opportunity to accused to challenge this order of rejection of discharge before Higher Court.
	Dictated and pronounced in Open Court.

Place : Panvel.

(K.G. Paldewar)
Additional Sessions Judge,
Panvel

Date : 27.02.2024.

Arguments heard on	24 th Day of January, 2024 and 27 th Day of February, 2024.
Judgment/Order delivered on	27 th Day of February, 2024.
Dictated on	27 th Day of February, 2024.
Transcribed on	28 th Day of February, 2024.
Checked and signed on	28 th Day of February, 2024.

CERTIFICATE

I affirm that the contents of this PDF file
Judgment/Order is same and as per the original Judgment/Order.

Name of the Stenographer : P.S.Mhatre
Name of the Court : Additional Sessions Court,
Panvel
Date of Judgment/Order : 27.02.2024.
Judgment/Order signed on : 28.02.2024.
Presiding Officer : K.G. Paldewar
Judgment/Order uploaded on : 28.02.2024.