

Sessions Case No. 10/2021
State Vs. Fattesinh Shivaji
Thorat and others

ORDER BELOW Ex. 32 :-

This an application filed by accused for discharge under Section 227 of the Code of Criminal Procedure.

2. It is the contention of the accused that, though the charge levelled against the accused is U/s. 307 of IPC but from the FIR itself the essential ingredients of Section 307 are not made out. Injuries to the informant and the weapon used for commission of offence does not disclose the commission of offence U/s. 307. From FIR itself, it appears that, there was dispute in between the parties, in respect of some land indicates that, there is a civil dispute is pending between them. The false chargesheet filed against accused Us 307 of IPC. Hence, they prayed for discharge.

3. Learned APP resisted the application by filling his say Exh. 33. He submitted that, there is previous enmity between both parties. Accused has intention to kill informant. Accused has knowledge that the weapon used in the crime is sufficient to cause the death of the informant. There is a prima facie case against the accused, hence he sought rejection.

4. Heard learned advocate Shri. F.R. Magdum for accused and learned APP for state.

5. Perused the documents on record. It appears from FIR itself that, accused Subhash has threaten to kill the informant in pursuance of their common object and common intention, all the accused assembled and restrained the way of informant and assaulted by iron rod on head of informant. Resettled principle that, to attract provisions of 307 of IPC causing the injury to the victim is not an essential part. The then also in the presence case the informant has sustained the injury on his vital part i.e. occipital region of head. It is alleged that, accused has assaulted the informant with intention to kill him. Thus, there is a prima facie evidence against accused to frame the charge U/s. 307 of IPC. It is also settled principle that, at the time of framing the charge the prima facie material brought on record is to be seen and its proof is not required. Proving the document is part of trial. As I found that, there is prima facie sufficient evidence to frame the charge U/s. 307 of IPC, I am of the opinion that the application filed by the accused for discharge is devoid merits. In the result I pass the following order.

ORDER

1] The application is hereby rejected.

Date:10-08-2022.

(Aniruddha Subhash Gandhi)
Addl. Sessions Judge, Islampur.

CERTIFICATE

I affirm that, the contents of this P.D.F. file are same, word to word, as per original order.

Name of the Stenographer	:	Shri. Pradip T. Patil (Steno Grd- I)
Court Name	:	Addl. Sessions Judge, Islampur.
Date of Judgment/order	:	10.08.2022
Signed by P.O. on	:	10.08.2022
Uploaded on	:	10.08.2022