

**Order below Exhibit No. 12 in S.C.C.No. 1012/2015**  
**(CNR NO. MHST070019702015)**

U.B. Mulani

.. Complainant

- Versus -

M/s. Ratnagiri Wind Power Project Pvt.Ltd.,company and Ors. .. Accused

The present application has been filed by Accused Nos. 2 and 3 for discharge under Section 245(2) read with Section 258 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Cr.P.C.”). The complainant has filed a reply on the overleaf and opposed the application. I have heard the arguments advanced by the learned Advocate for the complainant and the learned Advocate for the accused.

2. It is contended on behalf of the accused that, as per the order passed by the learned predecessor court dated 19/10/2016, it is recorded that the names of Accused Nos. 2 and 3 were wrongly mentioned. The complainant has filed a reply stating that he has no objection to the deletion of the names of Accused Nos. 2 and 3, as the process was erroneously issued against them. It is further submitted that the offence is of a petty nature, and therefore, the case deserves to be disposed of. Accordingly, it is prayed that the proceedings against Accused Nos. 2 and 3 be stopped and the Court may pronounce a judgment of acquittal in their favour.

3. On the other hand, the complainant has submitted that, as per the order passed below Exh. 6, the Court had issued certain directions to the learned Advocate for the accused. Although the complainant has no objection, it is submitted that the Inspector does not have the authority to discharge the accused. It is further contended that

the application for recording plea has been filed by the Advocate for the accused, and that Accused Nos. 2 and 3 were Directors at the time of the commission of the alleged offence. The complainant has placed on record documents at Exh. 34 in support of this contention. It is also submitted that Accused Nos. 2 and 3 are the same person holding two different posts. The complainant is a government officer and hence it is prayed that no concession be granted to the accused and the present application be rejected.

4. Perused the record. The present case has been filed under Section 27 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981, for commission of an offence under Clause 13(1) of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Scheme, 2002, read with Section 3(3) of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981, and Clause 42 of the said Scheme.

5. Accused Nos. 2 and 3, namely Anilkumar Surendranath Chanmalla Shetti, are the same individual, but shown to be holding different designations. In the complaint, Accused No. 2 is shown as the Managing Director, whereas Accused No. 3 is shown as the H.R. Manager. It is alleged by the complainant that Accused No. 1 is the company, M/s. Ratnagiri Wind Power Project Private Ltd. The complainant had visited the establishment of Accused No. 1 and observed that the company had not obtained registration for deployment of security guards as required under Clause 13(1)(c) of the Maharashtra Private Security Guards Scheme. The complainant directed the representative of the accused to register the establishment with the Sangli District Security Guards Board. However, despite issuance of a show cause notice, Accused Nos. 1 to 3

failed to comply with the same. Hence, the present complaint has been filed.

6. Upon perusal of the record, it appears that the application at Exh. 5 dated 19/06/2016 was filed by the learned Advocate for the accused under Section 206 of the Cr.P.C. seeking permission to record the plea of guilt of the accused through his advocate, on the ground that the penalty of Rs.500/- is leviable under Section 27 of the Act. The learned predecessor court passed an order dated 19/10/2016, stating as follows: “I have gone through the record. Considering the fact that the name of the accused is wrongly mentioned in the complaint, it is proper to direct the complainant to correct the complaint accordingly. The person who presented the application is not named as an accused. Hence, the application is filed on complaint. Summons under Section 206 of the Cr.P.C. be issued against the accused.”

7. From the above order, it appears that the learned Advocate for the accused did not mention the names of the accused persons on whose behalf the application for pleading guilty was filed. Moreover, the learned Court observed that the name of the accused was wrongly mentioned in the complaint and directed the complainant to take necessary steps to amend the complaint. However, it appears from the record that the complainant failed to take any such steps to amend the complaint.

8. Subsequently, the learned Advocate for the accused filed an application for discharge under Section 245(2) of the Cr.P.C. at Exh. 6, dated 16/11/2016, on behalf of Accused Nos. 2 and 3. The complainant filed a say and submitted that, as the offence was admitted by Ratnagiri

Wind Power Company, and the company had clarified that Accused Nos. 2 and 3 were not connected with the company, it had no objection to the exclusion of their names from the complaint. The learned predecessor court passed an order dated 18/07/2017, as follows:

“Perused the application and say. Heard both sides. Considering the submissions from both sides, the complainant is directed to file appropriate application. The application stands disposed of.”

9. Therefore, it is evident that the learned predecessor court neither accepted the plea of guilt on behalf of the accused by the order passed below Exh. 5, nor discharged Accused Nos. 2 and 3 by the order passed below Exh. 6, despite the complainant having given no objection to their exclusion from the complaint.

10. Therefore, this application is being considered separately. The accused have produced certain documents dated 15/12/2016 at Exh. 6 through their advocate to show that the names of the accused were wrongly mentioned. An affidavit of one Sunil Tukaram Kuradhe, who appeared in the matter on behalf of Accused No. 1, was filed through learned Advocate Shri Sanjay M. Bhalgat, stating on oath that the names of Accused Nos. 2 and 3 were incorrectly mentioned, and that Anilkumar Chanmalla Shetti is neither the Director nor the H.R. Manager of the company. Furthermore, copies of documents obtained from the internet were also placed on record to show that Accused Nos. 2 and 3 are not concerned with Accused No. 1 company. Hence, it appears that, relying on these documents, the learned predecessor court had directed the complainant to take necessary steps for correction in the complaint.

**11.** It further appears that, as the accused had sought permission to plead guilty through their advocate, the complainant gave no objection to the discharge of Accused Nos. 2 and 3 at Exh. 6. However, neither did the complainant carry out the amendment in the complaint, nor were summons issued under Section 206 of the Cr.PC.

**12.** Now, the present application has been filed on the ground that the Court has already recorded that the names of Accused Nos. 2 and 3 were wrongly mentioned, and the complainant has also given no objection to the deletion of their names from the complaint.

**13.** Moreover, it also appears that the learned Advocate for the accused has filed an application at Exh. 11 on behalf of Accused Nos. 2 and 3, seeking permission to record the plea of 'not guilty' through the advocate. However, the said application has been objected to by the complainant and is still pending for consideration. Therefore, it becomes clear that Accused Nos. 2 and 3 have now changed their stance and no longer wish to plead guilty through their learned advocate.

**14.** The complainant has placed on record a certified copy of the Shop Act license registered with the Office of the Assistant Labour Commissioner, Satara. It shows that M/s. Ratnagiri Wind Power Project Private Ltd. was a registered company. The names of the employers mentioned therein are Anilkumar Surendranath Chanmalla Shetti and Kolli Mahesh K. Bucchi Bapayya.

**15.** On the other hand, the accused have placed on record a receipt from the Ministry, contending that the accused was not connected with the company. The first document filed along with the list at Exh. 37,

i.e., Form DIR-12, reflects that Rama Raju Bhudharaju and Sudhirsingh Yadav were appointed as Directors of the company on 18/07/2014. Furthermore, the accused have filed documents issued by the Ministry of Corporate Affairs ie. Form DIR-12, showing that Anilkumar Surendranath Chanmalla Shetti ceased to be a Director of the company as of 18/07/2014.

16. The alleged offence occurred in the month of July 2015. As per the documentary evidence placed on record, it appears that Anilkumar Surendranath Chanmalla Shetti was not a Director of Ratnagiri Wind Power Project Private Ltd. at the time of the alleged offence. Moreover, the inspection reports filed along with the complaint, dated 21/07/2015 and 18/07/2015, mention that Sunil Tukaram Kurhade was the H.R. Manager. Therefore, it becomes evident that the name of Accused No. 3, Anilkumar Surendranath Chanmalla Shetti, was wrongly mentioned as H.R. Manager. Additionally, from the certified copies of documents obtained from the Ministry of Corporate Affairs, it is further established that Anilkumar Surendranath Chanmalla Shetti had ceased to be a Director of the company as of 18/07/2014. Hence, it becomes clear that Anilkumar was neither the Director nor the H.R. Manager of Accused No. 1 company on the date of the alleged offence.

17. The accused have relied upon the authority of the Hon'ble Delhi High Court in *Arvind Kejriwal v. Amit Sibal*, dated 16/01/2014, wherein it was held that:

“There is no express bar in the Cr.P.C. for discharge of the accused at the stage of framing of notice under Section 251 of the Cr.P.C. if no prima facie case is made out against him.”

18. In the said judgment, reliance was placed on the decision of the Hon'ble Supreme Court in *Bhushan Kumar v. State (NCT of Delhi)*, (2012) 5 SCC 424, wherein it was observed that:

“It is the bounden duty of the trial court under Section 251 of the Cr.P.C. to satisfy itself whether an offence is made out against the accused or not and to discharge the accused if no case is made out against him.”

19. Therefore, in view of the above-cited authorities, it is clear that discharge in a summons trial is permissible, even though it is not expressly provided for under the Cr.P.C. However, Section 245(2) is not applicable in the present matter, as it falls under Part B of Chapter XIX of the Cr.P.C., which pertains to the trial of warrant cases instituted otherwise than on a police report, i.e., by private complaint. Section 258 of the Cr.P.C. pertains to summons cases instituted otherwise than on a complaint, where the Magistrate has the power to stop proceedings. In the present case, however, the prosecution has been instituted on a private complaint filed by an Inspector of a Government Authority. Therefore, the provisions of Section 258 of the Cr.P.C. are not applicable.

20. However, in view of the legal position laid down in *Bhushan Kumar* (supra), I find it just and proper to discharge Accused Nos. 2 and 3 from the present offence, as no case is made out against them. Putting them on trial would amount to injustice to the accused. Hence, I pass the following order:

### ORDER

1. The application is allowed.

2. Accused Nos. 2 and 3 are hereby discharged from the present offence.
3. Bail bonds furnished by the said accused, if any, stand cancelled.
4. The proceedings shall continue against Accused No. 1.

Place :- Karad.

Date :- 17/07/2025.

( Smt. A.V. Mohite )

3<sup>rd</sup> Judicial Magistrate First Class, Karad.

Tal. Karad, Dist. Satara.