

IN THE COURT OF SESSIONS JUDGE, WASHIM.

Order Below Exh. 39
(Dated 30/04/2024)

- 1) The present application preferred by the applicant/accused Raju Narayan Maske for discharge on the ground that the crime is registered without inquiry, no proper investigation is carried out, there is delay in lodging the FIR, the witnesses are relatives of each other and filed false report out of previous enmity.
- 2) The prosecution objected the application, through say on back page of the application, on the ground that there is evidence of eye witnesses, there is prima facie case against the accused to frame the charge.
- 3) Heard Adv. Mr. C. R. Deshpande for the applicant/accused and PP Mr. A. R. Vyawahare for the prosecution at length.
- 4) On perusal of the application, the documents filed along-with the application, say of the prosecution along-with oral submissions of both the advocates, following points arise for the consideration of the Court, on which the Court answered thereon with the reasons as follows.

Sr. No.	Points	Findings
1)	Whether the applicant/accused proves the case for discharge on the ground that there is no prima facie case to frame the charge against the accused ?	In the negative .
2)	What order ?	As per final order.

REASONS

As to Point No. 1 -

5) The applicant/accused came with the case that Ansing police station has registered the crime and filed charge-sheet against the accused without proper investigation and without proper inquiry, due to which there is no prima facie evidence to frame the charge against the accused. It is further case of the applicant/accused that there is delay in lodging the FIR against the accused. So also, most of the witnesses are relatives of each other and the informant filed false report against the accused with conspiracy.

6) On perusal of FIR in the present case, it is observed that the informant given the report against the applicant/accused that on 25/07/2021, when she returned from her field at about 1.30 pm, she found the victim was not in the house. Therefore, she made inquiry with her mother-in-law and came to know that the victim was taken by the applicant/accused Raju to his house and therefore, she visited the house of the applicant/accused and found that the accused was moving his hand on the body of the victim and kissing her and therefore, she pushed the accused and then after, the accused ran away from the spot and then after she lodged the report.

7) On perusal of statement of the victim, it is observed that she identified the applicant/accused and she also stated that on 25/07/2021, the accused visited her house, taken her with him and kissed her in the bathroom of the house of his brother. So also, the said incident was witnessed by her mother. It is also observed that the mother-in-law of the informant also stated the incident that the accused

had taken the victim to his house at about 1.00 pm and she informed the said fact to her daughter-in-law at about 1.30 pm i.e. informant. She further stated that she came to know the alleged incident through the informant.

8) As the victim, mother of victim and grandmother of victim categorically stated that the applicant/accused had taken the victim to his house at about 1.00 pm on 25/07/2021 where he kissed her, then it can not be said that there is no evidence against the accused to frame the charge. No doubt, there is delay in lodging the FIR, but the said fact can not be became obstacle to frame the charge against the applicant/accused for the offence punishable under section 354 (A) of IPC along-with section 8 of POCSO Act.

9) The accused also came with the case that most of the witnesses are close relatives of each other, but the said stand of the accused is also not tenable because in natural course, the close relatives i.e. family members of victim are natural witnesses to the incident at least for the incident of taking the victim by the accused. So that, the above stand of the accused is also not made out the case of no evidence against the accused to frame the charge in the present case.

10) Though the accused came with the case that there was conspiracy of false implications of accused in the present crime, but the accused not mentioned who were conspirators and cause for conspiracy. Similarly, the said stand of the accused of conspiracy of false implications can be considered at the time of final argument on merit and not at this stage. So that, the Court hereby conclude that the

evidence on the record produced by the prosecution in the charge-sheet is sufficient to prove prima facie case to frame the charge against the accused for the offence punishable under section 354 (A) of IPC r/w section 8 of POCSO Act. Hence, the Court conclude that the applicant/accused failed to prove the case for discharge and answered **point no. 1 in the negative.**

As to Point No. 2

11) As the Court concluded that the applicant/accused failed to prove the case for discharge on the ground that there is no prima facie case to frame the charge against the accused in the present case, then the application deserves for rejection. Hence, the order -

ORDER

- 1) The application at exh. 39 for discharge of the applicant/accused is hereby rejected.
- 2) Accordingly, the application is disposed of.

Washim.
Date: 30/04/2024.

(S. V. Hande)
Sessions Judge, Washim.

CERTIFICATE

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

Name of Stenographer :- A. W. Ajmire, Stenographer (Grade-II)

Name of Court :- Principal District & Sessions Judge,
Washim, Tq. Dist. Washim.

Date of Judgment/ Order :- 30/04/2024

Judgment/Order signed by :- 02/05/2024
the Presiding Officer on

Judgment/Order uploaded on :- 03/05/2024