

	R.C.C. No. 05/2016
	State .. Vs .. Devendra Shishode
	CNR No. MHAM130000552016

Order Passed Below Exh. 39

(Passed On 11th day of August, 2026)

The present application is filed by the accused nos. 1 to 3 for discharge under Section 239 of the Code of Criminal Procedure, 1973.

02. Perused the application, say filed by the learned APP for the state, say filed by the non-applicant no. 2 i.e. the informant at Exh. 42 and record of the case. Heard learned Advocates Shri. P. V. Deshpande and Shri. Y. B. Pawar for the accused persons and learned APP for the state. Considered their submissions.

03. It is submitted by the accused in the application as well as in the written notes of argument at Exh. 92 that the offence has been registered against the accused persons on the basis of the report lodged by the non-applicant no. 2 i.e. the informant on 26.03.2015 as per the directions of the Hon'ble Sessions Court, Amravati. Earlier the report was lodged by the informant on 17.06.2014 in which it was alleged that he had never resigned from his post of President of Datta Shikshan Prasaran Mandal, Mangrul Dastagir, Dhamangaon Railway, Dist

Amravati and false resignation was prepared. As no offence was registered at police station, he moved an application under Section 156 (3) of CrPC which was rejected. In Revision, the Hon'ble Sessions Judge on 17.03.2015 passed order and gave directions to the learned Trial Court to direct concerned P. S.O. to hold inquiry under Section 156(3) of CrPC.

04. It is further submitted that in the absence of direction to register the offence, the offence was registered against the accused persons, investigation was conducted and chargesheet is filed. The learned Trial Court directed the P. S. O. Mangrul Dastagir on 23.03.2015 to hold inquiry as per the directions of Hon'ble Sessions Court, however the record shows that the offence had already been registered on 26.03.2015 that too on the basis of the fresh report. The entire practice adopted by the P. S. O. for registration of the crime is illegal and liable to be quashed.

05. Further, it is submitted on behalf of the accused nos. 1 to 3 that the handwriting report received from CID Nagpur shows that the signature on the resignation dated 19.04.2014 belongs to the informant and the stamps are genuine. The handwriting opinion obtained during investigation is in favor of the accused persons. There is no evidence on record to frame charge against the accused. Hence, they prayed to discharge the accused in the interest of justice. In support of contention, the accused have filed the copy of order of the Hon'ble High Court

along with list at Exh. 58, forensic science report along with list at Exh. 63, documents along with list at Exh. 86 and the authority of Hon'ble Supreme Court in the case of *Yogesh Alias Sachin Jagdish Joshi Vs. State of Maharashtra, reported in (2008) 10 SCC 394.*

06. On the other hand, the learned APP for the state opposed the application on the ground that the offence has been registered as per the directions of the Hon'ble Court under Section 156(3) of CrPC and after due investigation chargesheet has been filed before the court. There is prima facie evidence on the record to frame charge against the accused and the contentions raised in the discharge application are subject to the evidence in trial. Hence, he prayed to reject the application.

07. The non-applicant no. 2 i.e. the informant submitted in his say that there are statements of the complainant and the other members of Datta Shikshan Prasaran Mandal. The accused had moved to the Hon'ble High Court for quashing the case, however no relief was granted to them. The informant had never resigned from his post of President and false and fabricated resignation and resolution was prepared. The alleged report of handwriting expert is not proved or tested in the court and therefore, the contents of the report cannot be looked into at this stage. The handwriting expert report is in the nature of opinion and not conclusive proof. Hence, he also prayed to reject the application. In support of his submission, he placed

reliance on the following authorities.

- i. Ratnamala W/o Pushpakar Naik Vs. State of Maharashtra, Criminal Revision Application No. 124 of 2022 decided by the Hon'ble Bombay High Court on 07.01.2023.*
- ii. Dr. Avinash Manohar Warjurkar Vs. State of Maharashtra, Criminal Application (APL No. 641 of 2022 decided by the Hon'ble Bombay High Court on 17.03.2023.*
- iii. Sonu Gupta Vs. Deepak Gupta, reported in 2015 ALL MR (Cri) 1192 (SC).*
- iv. XYZ Vs. State of Maharashtra, decided by the Hon'ble Bombay High Court on 16.03.2023.*

08. Perused the record. The charge-sheet has been filed against accused nos. 1 to 3 for the offences punishable under Sections 406, 420, 464, 467, 468 and 120-B read with Section 34 of the Indian Penal Code, 1860. The prosecution case primarily revolves around the resignation letter dated 19.04.2014. According to the prosecution, the said resignation letter is forged and fabricated. It is the specific case of the prosecution that non-applicant no. 2, i.e., the informant, had never tendered his resignation from the post of President of Datta Shikshan Prasaran Mandal, Mangrul Dastagir, Taluka Dhamangaon Railway, District Amravati.

09. Before advertng to the material collected during the course of investigation, it is necessary to consider the legal principles governing an application for discharge in the light of the authorities relied upon by the learned Advocates for the accused as well as the informant.

10. In the case of **Yogesh Alias Sachin Jagdish Joshi** cited supra, the Hon'ble Apex Court observed in para no.16 that:

“...By and large, however, if two views are equally possible and the Judge is satisfied that the evidence produced before him give rise to suspicion only as distinguished from grave suspicion, he will be fully within his right to discharge the accused. At this stage, he is not to see as to whether the trial will end in conviction or not. The broad test to be applied is whether the materials on record, if unrebutted, make a conviction reasonably possible.”

...Emphasis added

11. In the case of **Ratnamala W/o Pushpakar Naik** cited supra, the Hon'ble Bombay High Court upheld the order of the learned trial court rejecting the application for discharge on the ground that the law does not permit holding of mini trial at the stage of discharge.

12. The Hon'ble Bombay High Court in the case of **Dr. Avinash Manohar Warjurkar** cited supra, discussed the settled

principle of laws on discharge and observed that at the stage of framing of charge, the Court is required to take into consideration the material compiled in the chargesheet. Appreciation of evidence at the time of framing of charge or while considering discharge application, is not permissible.

13. In the case of *Sonu Gupta Vs. Deepak Gupta* cited supra, the Hon'ble Apex Court held that even at the stage of framing of the charge, the sufficiency of materials for the purpose of conviction is not the requirement and a prayer for discharge can be allowed only if the materials are wholly insufficient for the purpose of trial.

14. In the case of *XYZ Vs. State of Maharashtra*, the Hon'ble Bombay High Court observed that if the material on record is sufficient to form an opinion that there is ground presuming that the accused has committed an offense, the charge has to be framed.

15. In the present case, the material collected during investigation reveals that the resignation letter dated 19.04.2014 was seized by the Investigating Officer. During the course of investigation, specimen handwriting and signature samples of the informant and the accused were collected and forwarded to the State Examiner of Documents, C.I.D., M.S., Nagpur, for expert examination. The handwriting expert's report forms part of the charge-sheet. A perusal of the said report indicates that the signature appearing on the resignation letter

dated 19.04.2014 corresponds with the specimen signature of the informant. However, the rubber stamp affixed on the said resignation letter does not tally with the specimen rubber stamp collected during investigation from the informant. This circumstance, viewed in the light of the prosecution case, gives rise to a grave suspicion regarding the authenticity and genuineness of the resignation letter, which constitutes the very foundation of the prosecution case.

16. In order to dispute the opinion of the State Examiner of Documents, the accused have produced a forensic examination report obtained from a private expert along with the list at Exh.63. However, consideration of the said report at this stage would necessarily involve an appreciation and comparative evaluation of the expert opinions, which is impermissible while deciding an application for discharge. As discussed hereinabove, the settled legal position is that the court cannot undertake appreciation of evidence at the stage of framing of charge. The report relied upon by the accused forms part of their defence and its evidentiary value can only be tested during the course of trial.

17. The learned Advocate for the accused has further contended that the charge-sheet deserves to be rejected as the investigation was conducted without a valid order of the court. It is submitted that by order dated 17.03.2015, the Hon'ble Sessions Court directed the learned Magistrate to issue

directions to the concerned P.S.O. to conduct an inquiry under Section 156(3) of the Code of Criminal Procedure. The learned Magistrate issued such direction on 27.03.2015. However, the police had already registered the offence on 26.03.2015, i.e., prior to the order of the learned Magistrate, and thereafter filed the charge-sheet. Even assuming the said contention to be true, the alleged irregularity pertains to the procedure adopted during investigation. Such procedural irregularities, by themselves, do not constitute a valid ground for discharge when the material collected during investigation otherwise discloses sufficient grounds for proceeding against the accused. The effect of such alleged procedural lacunas can be considered at the appropriate stage upon appreciation of evidence.

18. At the stage of deciding an application for discharge, the court is required to examine only whether the material forming part of the charge-sheet discloses sufficient grounds for presuming that the accused have committed the alleged offences. The court is neither expected to conduct a meticulous appreciation of evidence nor to determine the probable outcome of the trial. Upon considering the material collected during investigation, particularly the opinion of the handwriting expert along with the other documents forming part of the charge-sheet, this court is satisfied that there exist sufficient grounds for proceeding against accused and to frame charge against them. Accordingly, following order is passed:

ORDER

The application at Exh. 39 is hereby rejected.

Sd./-

Date : 11.08.2026
Place: Dhamangaon Railway

(Lushnali L. Tamgadge)
Judicial Magistrate First Class,
Court No. 2,
Dhamangaon Railway