

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 826 OF 2016**

Vikas Pandurang Shelar & Anr.	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. Manas N. Gawankar for the Applicants

Mrs A. A. Mane, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 18th AUGUST, 2016

P.C. :

1. Heard learned Counsel for the applicants.

2. The applicants have impugned the order dated 27th November, 2015 passed by the learned Metropolitan Magistrate, 10th Court, Andheri, Mumbai, by which, the learned Judge was pleased to frame charge as against the applicants.

3. Learned Counsel for the applicants submitted that the learned Judge has not complied with the provisions of Sections 239 and 240 of the Cr. P. C. He relied on the judgment of this Court in the case of ***Madhukar***

Sukhdeo Thube vs. The State of Maharashtra & Anr.¹. He submitted that the learned Judge ought to have given an opportunity to the applicants and ought to have heard the applicants before framing charge.

4. Learned A.P.P opposed the grant of any relief. She submitted that no interference is warranted in the order framing charge.

5. Perused the papers. It may be noted that admittedly there was no application filed by the applicants seeking their discharge from the said case. It is also not the case of the applicants that they were not furnished with the copy of the charge-sheet, as a result of which, they could not make any representation before the learned Judge seeking their discharge. The judgment relied upon by the learned Counsel for the applicants is clearly distinguishable. In the case of ***Madhukar Sukhdeo Thube (supra)***, the accused were not furnished with the copy of the police report and the accompanying documents and in light of the same, the learned Judge rightly held that no opportunity was given to the accused and set aside the order framing charge.

1 2014 All MR (Cri.) 1451

6. In the present case, admittedly no grievance was made by the applicants at the time of framing of charge nor any application was preferred by the applicants seeking their discharge. It is also not the applicants' case that they were not furnished with the copy of the police report along with the accompanying documents. Under these circumstances, the learned Magistrate proceeded and framed charge as against the applicants. No interference whatsoever is warranted in the facts of the present case. Accordingly, the application stands rejected.

REVATI MOHITE DERE, J.