

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 2622 OF 2016

Mr. Prashant Janardan Nalawade ... Petitioner

vs.

The State of Maharashtra & anr. ... Respondents

Mr. Kunal J. Rane, Advocate for the petitioner.
Mr. V. B. Konde Deshmukh, A.P.P. for the State/respondent no.1.
Mr. Aniruddha Lad a/w Mr. Biju Joseph i/by B. J. Law Offices LLP,
Advocate for respondent no.2/ori.complainant.

Coram : Smt. R. P. SondurBaldota, J.

Date : 9th January, 2017

P.C. :

1. This petition has directed against the order dated 9th March, 2015, by which the trial Court framed charge against the petitioner and recorded his plea and, the order dated 29th June, 2016 passed by the Sessions Court on the Revision Application No.702 of 2015 filed by the petitioner challenging the order of framing of charge.

2. The brief facts of the case are that, on the basis of the report filed by one Yogesh Prabhakar Ratnakar on behalf of UAE Exchange and Financial Services Ltd. for the offence punishable under Sections 403, 405, 406, 408, 415, 420, 463, 464, 465, 467, 468, 469, 470, 471, 472, 473, 477(a) and 120-B of Indian Penal Code, crime came to be registered against the petitioner

and others vide Crime No.9 of 2012 with Dadar Police Station. After investigation charge-sheet was filed against one Sangeet Suresh and the petitioner. Thereafter supplementary charge-sheet was filed against the petitioner vide Criminal Case No. 20/PW/2015. As both the cases arose out of the same crime number, they were clubbed together and charge framed on 9th March, 2015. The petitioner preferred revision application against the order of framing of charge contending firstly that there was no opportunity given to him to file an application for discharge and secondly that there is no material against him to frame charge.

3. The Sessions Court has noted in it's order that no separate order is required to be passed by the Magistrate for framing of charge by giving a special date for it. From the provision of Section 239 of Criminal Procedure Code, it is clear that if the Magistrate considers the charge against the accused to be groundless, he can discharge him and report reasons for doing so. If he finds that there are grounds for framing charge he can proceed to frame the charge against the accused for which no reasons are required to be recorded. The hearing for framing of charge or discharge take place at that stage of the proceedings. There is no provision for any specific time to be given to accused for filing an application for discharge. These observations of the Sessions Court are correct and proper observations. Therefore there can be no substance in the first ground of challenge of framing of charge.

4. As regards the second ground of there being no material on record against the petitioner, the Sessions Court has

noted that sufficient material exists from the statement of the complainant recorded on 2nd November, 2012. It indicates that powers were given to the petitioner as a Branch Officer, Forex Assistant along with the co-accused, the Branch Manager to operate the Bank account maintained with IDBI Bank, Prabhadevi Branch to do financial transactions on behalf of the company. It is alleged that there were deliberate false entries taken into record thereby cheating the company. The Sessions Court observes that the extent of trustworthiness of the witnesses is to be decided only after deciding the same by way of cross-examination during the course of trial. At the stage of framing of charge all that the Court need to look into or consider is whether there is sufficient material available on record to proceed against accused for the purpose of framing of charge. There is no infirmity with this finding of the Sessions Court also. Hence, the petition is dismissed.

[Smt. R. P. SondurBaldota, J.]