

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

CRIMINAL APPLICATION No. 807 OF 2017

Poojashri D. Narvekar

...Applicant

Vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Prashant Gurav a/w. Sameer Khedekar for Applicant

Mr. Y.Y. Dabke -APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 12, 2018

P.C.

1. In C.R. No. 319 of 2015 registered on 15th September, 2015 for an offence punishable under section 324, 417, 504 and 506 of the Indian Penal Code, the Applicant has sought discharge before the Learned Court below, which came to be rejected, as such the present proceeding. The facts, necessary for deciding the present application are as under.

2. The Complainant and the present Applicant are the neighbors and a quarrel took place on the issue of swiping the gallery and causing obstruction to the Complainant. It is the allegation against the present Applicant that she assaulted the Complainant with an umbrella, causing an injury for which

offence punishable under section 324, mischief causing damage for which offence punishable under section 427, intentional insult with intent for which offence punishable under section 504 and criminal intimidation for which offence punishable under 506 of IPC came to be registered. The charge-sheet in the matter was already filed.

3. In the aforesaid background, the learned counsel for the Applicant urge that a counter complaint is registered against the complainant in Crime No. 319 of 2015 at the behest of the Applicant being Crime Registration No. 320 of 2015. In the said crime, it is alleged that the Complainant has committed an offence punishable under section 354, 504, 509 of the IPC.

4. It is claimed by the learned counsel for the Applicant that during the hearing offence registered at the behest of the present Applicant was not disclosed and rather said fact was suppressed from the Investigating Agency, which is one of the grounds for discharge. He would then invite attention of this Court to the injury certificate and claim that the necessary ingredients under section 324 are not specified. He would then urge that some of the sections are non-cognizable and, as such, the Applicant is entitled for discharge.

5. Per contra, the learned APP for the State would urge that there is sufficient material available against the present Applicant. According to him,

the case of discharge is rightly rejected by the Appellate Court which does not warrant inherent jurisdiction of this Court. The learned APP, upon instructions, assures this Court that appropriate and correct injury certificate will be produced before the Learned Trial Court within a period of six weeks from today.

6. Considered rival submissions and perused the charge-sheet. The Complainant in his complaint has specifically named the Applicant as an accused, who has used an umbrella for committing an assault, which has resulted into causing injury. Because of the assault, the Complainant's specs were also damaged. The injury certificate produced on record speaks of an injury near eyebrow which is claimed to have been caused by a weapon, which is umbrella. Since the accused claimed to have left the umbrella on the spot, the same has been produced before the police. Apart from above, there are statements of the other eye-witnesses, who have named the present Applicant as an accused who has indulged herself in the commission of crime in question.

7. In the wake of above, the claim of the Applicant that there is no material on record to infer that the cognizable offence is disclosed against her are liable to be rejected. The defence of the applicant qua her implication in the crime cannot go into at this stage. Hence, no case is made out for interfering with

the impugned order passed by the Learned Court below. Criminal Application is rejected.

8. The observations made herein are of the prima facie in nature and the Trial Court shall not get influenced by the same and independently evaluate the evidence in the trial.

[NITIN W. SAMBRE, J.]