

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL REVISION APPLICATION NO.102 OF 2022

**KISHOR SHANKAR KOTHULE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Miss. Siddhi A. Kothari h/f
Mr. S. G. Ladda
APP for Respondents-State: Mr. K. S. Patil

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CORAM : S. G. MEHARE, J.

DATE : 21st November, 2022

PER COURT :-

1. The applicant has preferred revision against the order passed by the learned Sessions Judge, Parbhani below Exhibit-195 dated 02.12.2021 rejecting the prayer of discharge.

2. The learned counsel for the applicant would argue that there is no sufficient material to frame the charge against the applicant. No incriminating evidence had been there to connect the applicant to prove or prima facie show that he had replaced the photograph by photo-shop. The statements of few witnesses are the only evidence against the applicant. Many other co-accused have been discharged. Considering the role attributed to the applicant and the material collected by the Investigating Officer, it is not sufficient to frame the charges.

3. Learned APP has opposed the application. The prosecution has a sufficient material to show the involvement of the applicant in the crime. The witnesses are consistently stating that it is the applicant who had photo-shopped the photos of the complainant and his wife. *Prima facie*, evidence is available against the applicant. The order is free from error. Hence, cannot be interfered with.

4. While framing the charge, the Court has to examine the provisions of Section 227 of the Code of Criminal Procedure, 1973. The said Section provides that if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing. Before discharge, both the parties are required to be heard and the Court has to consider the record of the case and documents submitted with the charge-sheet and form an opinion that there is no sufficient ground to proceed against the accused.

5. If there are the grounds for presuming that the accused has committed the offence, the Court has to frame the charge. *Prima facie*, material has to be seen, while framing the charges.

6. Perused the statements read before this Court by both the counsels. From the statements of the witnesses, prima facie it appears that it is the applicant, who had photo-shopped the photos. The oral statement has evidentiary value that cannot be ignored at the juncture of framing the charges. The impugned order does not appear that the learned Additional Sessions Judge, Parbhani while rejecting the prayer for discharge has committed error of law. There appears no substance in the application. Hence, the application stands dismissed. No order as to costs.

[S. G. MEHARE, J.]

Sameer