

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

935 CRIMINAL WRIT PETITION NO.1026 OF 2017

MOHD. ABDUL WASE S/O. MOHD. ABDUL MUJIB
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Mr. Dhananjay M. Shinde, Advocate for the petitioner
Mr. S. G. Karlekar, APP for the State,
Mr. Jaybhar, Advocate for respondent No.2

CORAM : A.S. GADKARI, J.
DATE : 20th January, 2022

ORDER:

1. Learned counsel for the petitioner fairly submitted that, during pendency of the present petition, trial court has already framed charge in the present case i.e. R.C.C.- No.272/2015.

2. The Hon'le Supreme Court, in the case of Katilal Bhanji Mithani Vs. State of Maharashtra, reported in (1979) 2 SCC 179, has held that, after framing of charge, there cannot be a 'discharge', but only an 'acquittal' based on a finding of no guilt, turning on the merits of the case.

In view thereof, the present petition impugning the order of rejecting 'discharge' under section 239 of the Criminal Procedure Code does not survive.

3. Petition is accordingly disposed of.

(A.S. GADKARI, J.)