**Discharge Application section 227 or 245 of CrPC, 1973**

SHORT TITLE

BEFORE THE METROPOLITAN MAGISTRATES / MAGISTRATES COURT AT \_\_\_\_\_\_\_

OR

HON’BLE SESSIONS COURT AT \_\_\_\_\_\_

C.C. No. ……….. of 20\_\_\_

ABC                                                                            Applicant /

                                                                                  Accused No.1

Versus

The State of Maharashtra

(through XYZ Police station)

Charges u/ss \_\_\_\_\_\_\_\_\_\_\_

APPLICATION FOR DISCHARGE U/S 227 / 245 of CrPC, 1973

MAY IT PLEASE YOUR HONOUR

[Discharge Application before Sessions Court u/s 227]

1.      The Applicant states that one Mr. PQR filed an FIR before \_\_\_\_\_\_\_\_                  Police Station and was registered as C.R.No. \_\_\_\_\_ of 20\_\_\_.

2.      The Applicant states that pursuant to said FIR, the Applicant was illegally arrested on \_\_\_\_\_\_\_(if there is any arrest), and the Applicant was charged under sections of  \_\_\_\_\_\_\_\_\_\_\_.

3.      The Applicant was remanded to Police custody and judicial custody from time to time. (if arrest is effected).

4.      The Police have filed the Chargesheet u/s 173(8) of CrPC on \_\_\_\_\_ before the Ld. Magistrates Court \_\_\_\_ at \_\_\_\_\_\_.

5.      Section 209: Commitment of case to Court of Session when offence is triable exclusively by it: When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate, and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall commit (transfer), the case to the Court of Session, subject to compliance of sections 207 or 208, as may be applicable.

[Discharge Application before Magistrates Court u/s 245]

1.      The Applicant states that, pursuant to Complaint filed by the Respondent No.2 u/s 200 of CrpC, 1973, this Hon’ble Court were pleased to take the cognizance of the offence and were pleased to issue Summons / Warrant against the Applicant / accused herein.

6.      The Applicant, therefore, most humbly, prefer this Discharge Application, on the following grounds –

GROUNDS

a)      The allegations made in the complaint, even, if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence;

b)      The allegations made in the complaint and the evidences furnished in support of the same, do not disclose the commission of any offence by the Applicants, and do not make out any case against the Applicant;

c)      That there are merely general allegations against the Applicants, without any specific attribution of incriminating acts and omissions, and the whole complaint against the present Applicants is based on speculation of facts, assumptions, imaginations and guessing;

d)     That there are no evidences adduced against the Applicants, and therefore there were no sufficient grounds to proceed against the Applicants, and therefore, the essential requirement of law set out in section 204 of CrPC, 1973 is not satisfied;

e)      That the evidences adduced against the Applicants are so weak and grossly inadequate to call the Applicants to face criminal prosecution;

f)       That requirement of law contemplated u/s 202 of CrPC, 1973 is not complied with;

g)      There is an express legal bar engrafted in the CrPC, 1973, or under \_\_\_\_\_\_\_  (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

7.      The Applicant therefore, most humbly prays

a)      That this Hon’ble Court be pleased to discharge the present Applicant from the alleged offences, on the grounds as stated hereinbefore.

b)      To pass such other and further Order and to grant such further reliefs as this Hon’ble Court deems fit and proper in the facts and circumstances of the case.

FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY FOR.

Dated this \_\_\_\_\_ Day of \_\_\_\_\_\_\_\_, 20\_\_\_

ABC

Applicant

XYZ

Advocate for the

Applicant

DISCHARGE APPLICATION MAY BE ACCOMPANIED BY –

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Docket

Applicable Sections – 227, 245 of CrPC.

Relevant Link –http://thepracticeoflawjalan.blogspot.in/2012/04/crpc-discharge-of-accused.html

Note: Two copies of this Application shall be served upon the Public Prosecutor representing the Police in the present case, preferably before the Hearing of this Application.