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What is a warrant to discharge

Discharge application is the remedy provided to the person who has been charged maliciously. If the false allegations have been made against him, he can file an application for discharge. He is entitled to acquittal if the evidence provided to the court is not sufficient to prove the offence. This application can be filed even before the charges have been set against him if the judge contemplates that there are no sufficient grounds available for implementing the proceedings against the accused. The discharge application can only be filed against warrant cases. Warrant cases consist of serious crimes that are punishable with death or imprisonment more than 2 years. A warrant is a document or order that empowers the Police to arrest a person holding criminal charges. Contents of discharge application, the court has to consider the following facts: 1. The report and charge sheet submitted by police under section 173 of Crpc. 2. Adequate opportunity to be heard has been given to the prosecution and the accused. 3. The magistrate thinks through the charges as false and unsubstantiated. Procedure: While filing an application for discharge, the accused has to consider the following points: 1. That the report submitted by the Police does not contain effective facts and evidence. 2. That the material facts of the case cannot be determined. 3. That the accusations upon him are unsubstantiated and vague. 4. That the prosecution has not provided with any witnesses. After examining these facts and evidence, if the magistrate thinks that these grounds are sufficient to discharge the accused, the application for discharge is accepted. The remedy for the accused under section 239 is available on a prima facie case, if the report submitted by the Police does not conclude any prima facie case, then the court has the power to discharge the accused, if after considering the reports submitted by police under section 173 and inspecting the facts and evidence provided; the magistrate finds the charges as vague and unjustified. on the other hand, under section 245 (1); if after identifying the evidence of the case, no prima facie case has been noticed, the court is bound to discharge the accused. There is an exception to this rule as mentioned under Section 245(2) which states that the court can also discharge the accused without even interpreting the evidence if the charges against him are indefinite and groundless. In Amit Sibal v. ArvindKejriwal[2] case, the court has observed that there is no power available to the magistrate to discharge an accused person in a summon trial to complain case. But, the accused in a summon case can ask for a revision under section 397 of Crpc. The protection provided under Section 397 of Crpc. The protection provided under section 397 of Crpc. The protection provided under section 397 of Crpc. the offence which is not committed by him. "Let a hundred guilty be acquitted, but one innocent should not be convicted†End-Notes [1]Sri Umesh Kumar Ipsvs The State of Andhra Pradesh(2008) 2 SCC 574 [2]2016 SCC onLine SC 1516 Law Article in India Ask A Lawyers You May Like Online Copyright Registration LawArticles The Inherent power under Section 482 in The Code Of Criminal Procedure, 1973 (37th Chapter of th... Whether in a criminal proceeding a Caveat Application is legally permissible to be filed as pro... How To File For Mutual Divorce In Delhi Mutual Consent Divorce is the Simplest Way to Obtain a D... The Intellectual Property Rights (IPR) has its own economic value when it puts into any market ... Origin of Writ In common law, Writ is a formal written order issued by a body with administrati... There has been rise of large scale factory/ industry in India in the later half of nineteenth ce... Lawyers Membership - Get Clients Online Previous PageTable of ContentsNext Page Marginal note: Conditional and absolute discharge 730 (1) Where an accused, other than an organization, pleads guilty to or is found guilty of an offence punishable by imprisonment for fourteen years or for life, the court before which the accused appears may, if it considers it to be in the best interests of the accused and not contrary to the public interest, instead of convicting the accused, by order direct that the accused be discharged absolutely or on the conditions prescribed in a probation order made under subsection 731(2). Marginal note: Period for which appearance notice, etc., continues in force(2) Subject to Part XVI, if an accused who has not been taken into custody or who has been released from custody under any provision of that Part pleads guilty to or is found guilty to or is found guilty of an offence but is not convicted, the appearance notice, summons, undertaking or release order issued to, given or entered into by the accused continues in force, subject to its terms, until a disposition in respect of the accused is made under subsection (1) unless, at the time the accused be taken into custody pending such a disposition. Marginal note: Effect of discharge (3) Where a court directs under subsection (1) that an offender be discharged of an offence, the offender shall be deemed not to have been convicted of the offender may appeal from the determination of guilt as if it were a conviction in respect of the offence; (b) the Attorney General and, in the case of summary conviction proceedings, the informant or the informant or the informant's agent may appeal from the decision of the court not to convict in respect of any subsequent charge relating to the offence. Marginal note: Where person bound by probation order convicted of an offence under section 733.1, the court that made the probation order may, in addition to or in lieu of exercising its authority under subsection, revoke the discharge, convict the offender of the offender that subsection revoke the discharge, convict the offender of the offender and impose any sentence that could have been imposed if the offender of had been convicted at the time of discharge, and no appeal lies from a conviction under this subsection where an appeal was taken from the order directing that the offender be discharged. R.S., 1985, c. C-46, s. 730 1995, c. 22, s. 6 1997, c. 18, s. 141 2003, c. 21, s. 172019, c. 25, s. 296 Criminal Code1 - Short Title 2 - Interpretation 3.1 -Part I 46 - PART II - Offences Against Public Order 83.01 - PART II.1 - Terrorism 84 - PART III - Firearms and Other Weapons 118 - PART IV - Sexual Offences, Public Morals and Disorderly Conduct 183 - PART VI - Invasion of Privacy 183 - Definitions 184 -Interception of Communications 197 - PART VII - Disorderly Houses, Gaming and Betting 214 - PART VIII - Offences Relating to Conveyances 321 - PART IX - Offences Against Rights of Property 379 - PART X - Fraudulent Transactions Relating to Contracts and Trade 428 - PART XI - Wilful and Forbidden Acts in Respect of Certain Property 448 - PART XII - Offences Relating to Currency 462.1 - PART XII.2 - Proceeds of Crime 463 - PART XIII - Attempts — Conspiracies — Accessories 468 - PART XIV - Jurisdiction 468 - General 476 - Special Jurisdiction 482 - Rules of Court 483 - PART XV - Special Procedure and Powers 493 - 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