



NC: 2026:KHC:31854
CRL.P No. 1056 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 1056 OF 2020

BETWEEN:

STATE OF KARNATAKA
BY J C NAGAR POLICE STATION
BENGALURU.
REP BY THE STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU - 560 001.

...PETITIONER

[BY SMT. SOWMYA R., HCGP (PH)]

AND:

MISS KAUSER BANU
D/O LATE ABDUL BASHEER
AGED ABOUT 40 YEARS
R/AT NO.46/8, 2ND CROSS,
MARAPPA GARDEN
CHURCH ROAD, J C ROAD
BENGALURU - 560 006.

...RESPONDENT

[BY SRI PRABHUGOUD B. TUMBIGI ADVOCATE (PH)]

THIS CRL.P IS FILED U/S 482 CR.PC PRAYING TO (a)SET
ASIDE THE ORDER DATED 15.04.2019 PASSED IN CRL.RP.
NO.22/2019 ON THE FILE OF THE LXV ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE, BENGALURU CITY, (b) CONFIRM THE
ORDER DATED 15.12.2018 PASSED BY THE COURT OF VIII
ADDITIONAL CHIEF METROPOLITAN MAGISTRATE BENGALURU
IN C.C.NO.27934/2016 ON AN APPLICATION FILED U/S.239 OF
CR.P.C.

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



THIS PETITION, COMING ON FOR *DICTATING ORDERS*,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 15.04.2019 passed by LXV Additional City Civil & Sessions Judge, Bengaluru, in Crl.RP.no.22/2019 allowing application under Section 239 of Code of Criminal Procedure, 1973 (**CrPC**) by accused no.1, this petition is filed.

2. Smt.Sowmya R., learned HCGP for petitioner-State submitted that at 12:05 pm on 26.04.2016, one Smt.Nayaz Ahmed Gowri (**complainant**) filed complaint before JC Nagar Police Station, Bengaluru stating at 9:00 pm on 25.04.2016 there was quarrel between her sister-in-law Farah Zareen Banu (**Farah**) and Kauser Banu (**accused**) and Farah lodged complaint with JC Nagar Police Station in NCR no.146/2016 in which accused was issued notice to appear for investigation. Enraged by same, around 9:00 pm, accused abused complainant and her family members and she was about to hit complainant on her head with brick, complainant blocked it with her left hand in which little finger sustained injury. Complainant



also sustained bruises near her left eye. Based on same Crime no.60/2016 was registered against accused for offences punishable under Sections 324 and 504 of Indian Penal Code, 1860 (**IPC**). After investigation, police filed charge sheet against accused on 29.10.2016 for offences punishable under Sections 323, 326 and 504 of IPC in CC no.27934/2016 on file of VIII Addl. Chief Metropolitan Magistrate, Bengaluru.

3. In said proceedings, accused filed application for discharge. After trial Court rejected it, accused filed Crl.RP no.22/2019 before LXV Addl.City Civil and Sessions Judge, Bengaluru. Same was allowed. Aggrieved, present petition was filed.

4. It was submitted, incident occurred at 9:00 pm on 25.04.2016. Immediately after incident, she went to Bowring Hospital, where at 10:05 pm Doctor (CW.10) examined her and noted injuries and issued wound certificate. Complaint was filed next day at 12:05 pm without delay. Thereafter, statement of complainant was recorded on 26.04.2016. Above material would indicate complainant sustained injuries because of alleged incident. Even injuries such as superficial abrasion over



left cheek, tenderness and swelling over left little finger would attract offences under Section 326 and 504 of IPC, which was ignored. Hence, sought for allowing petition.

5. Sri Prabhugoud B Tumbagi, learned counsel for accused opposed petition. It was submitted, learned Sessions Judge discharged accused after examination of entire charge sheet material and on ground that they did not disclose commission of any offence. Firstly, injuries mentioned in wound certificate were *simple* in nature. Secondly, utterance of abuses was denied by accused and there was no corroboration in statements of any of witnesses. Hence, order on application for discharge was justified and no interference warranted.

6. Heard learned counsel and perused impugned order.

7. This petition is by State challenging order passed by Revisional Court reversing order of trial Court and allowing application filed by sole accused for discharge.

8. Law regarding consideration for an application for discharge is well settled. Hon'ble Supreme Court in **Sajjan**



HC-KAR

Kumar v. CBI reported in **(2010) 9 SCC 368**, wherein it is held:

"17. Exercise of jurisdiction under Sections 227 & 228 of Cr.P.C.

On consideration of the authorities about the scope of Section 227 and 228 of the Code, the following principles emerge:

- (i) The Judge while considering the question of framing the charges under Section 227 of the Cr.P.C. has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.*
- (ii) Where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial.*
- (iii) The court cannot act merely as a post office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court, any basic infirmities, etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.*
- (iv) If on the basis of the material on record, the court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.*



- (v) *At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible.*
- (vi) *At the stage of Sections 227 and 228, the court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.*
- (vii) *If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal."*

9. In **CBI v. Aryan Singh**, reported in **(2023) 18 SCC 399**, Hon'ble Supreme Court has spelt on powers of High Court under Section 482 of CrPC against an order of discharge as follows:

- "7. Therefore, the High Court has materially erred in going in detail in the allegations and the material collected during the course of the investigation against the accused, at this stage. At the stage of discharge and/or while exercising the powers under*



Section 482 CrPC, the Court has a very limited jurisdiction and is required to consider "whether any sufficient material is available to proceed further against the accused for which the accused is required to be tried or not".

10. Trial Court rejected application on solitary reason that while considering application for discharge, Court cannot conduct mini trial by referring to **Kuriachan Chacko v. State of Kerala**, reported in **2007 CrI.J 4458**.

11. Whereas reasons assigned by learned Sessions Judge were that material on record did not disclose ingredients of offences punishable under Section 326 or 504 of IPC. Firstly, injuries noted in wound certificate (i.e. superficial abrasion over left cheek, tenderness/swelling on left little finger) were simple in nature and did not fall within enumerations under Section 320 of IPC and therefore charge under Section 326 of IPC would be unsustainable. And secondly, though petitioner was alleged to have abused complainant and his family members in foul language, neither complaint or statement of witnesses specified words uttered and therefore, there was no material to indicate sustain charge under Section 504 of IPC. Apart from above, it noted antecedent disputes/litigation between



complainant and accused and drew conclusion that filing of complaint was to satiate personal grudge.

12. Though it is alleged that learned Sessions Judge erred in examining probative value of prosecution material, it is seen that conclusion is arrived at by taking prosecution material on face value. Further, Hon'ble Supreme Court in **Madhushree Datta v. State of Karnataka [2025 INSC 105]** has observed that to establish ingredients of Section 504 of IPC, it must be demonstrated that there was intentional insult with intent or knowledge that such insult would provoke either disturbance of public peace or commission of any other offence and for which abusive words uttered would require to be examined. Though, normally statements recorded under Section 164 of CrPC are not treated as substantive evidence and they are only to bind witnesses to their early version of events and prevent retractions during trial. And testing such statements whether would bear material to sustain prosecution cannot be stated to be testing truthfulness of such statements. And would qualify as valid exercise of jurisdiction. In light of above, non-mention of abusive words by complainant / chargesheet witnesses would be fatal.



13. Apart from above, Sessions Court also noted that complaint was motivated by previous conflicts and personal grudge. Though existence of prior disputes between parties cannot by itself be a ground to reject prosecution case at threshold, when there are other substantive grounds, mere addition of said reason would not be a ground for interference. As such impugned order passed by learned Sessions Judge would be unexceptionable.

14. Consequently, petition is devoid of merit and is dismissed.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV,GRD
List No.: 1 Sl No.: 65