



CNR: KAHC010125872026

NC: 2026:KHC:47876
CRL.P No. 2711 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 2711 OF 2026

BETWEEN:

MR.ASHOKA B.,
S/O LATE BHIMA NAIK
AGED ABOUT 44 YEARS,
R/O. MYSAVALLI VILLAGE,
SHIVAMOGGA TALUK.

...PETITIONER

(BY SRI RAJARAM S., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
SUB INSPECTOR OF POLICE,
KUMSI POLICE STATION
SHIVAMOGGA DISTRICT.
REPRESENTED BY SPP,
HIGH COURT BUILDING,
BENGALURU - 560 001.

2. XXXX
XXXX
XXXX
XXXX

...RESPONDENTS

(BY SMT.DEEPTHI ALVA, HCGP FOR R-1)

Digitally signed
by RAKESH S
HARHLAR
Location: High
Court of
Karnataka,
Dharwad Bench



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THIS CRL.P IS FILED U/S 528 BNNS PRAYING TO QUASH AND SET ASIDE THE REJECTION ORDER DATED 22.11.2025 IN SPL.C.NO.219/2025 PASSED BY THE ADDL.DISTRICT AND SESSIONS JUDGE FTSC-I, SHIVAMOGGA FOR THE OFFENCE P/U/S 376AB AND 506 OF IPC AND SEC.4 AND 6 OF THE POCSO ACT, 2012.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner, sole accused is before the Court calling in question the proceedings in Special Case No. 219 of 2025 registered for offences punishable under Sections 376AB and 506 of the IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for short).

2. Facts in brief, germane, are as follows:

A complaint comes to be registered against the petitioner for the aforesaid offences. It is the case of the prosecution that the victim who was 10 years old was sexually exploited and



abused by the petitioner. Statements during the investigation were recorded and the statement indicated that the petitioner was directly involved in the crime so alleged. Based upon the statements so recorded and investigation conducted, the police filed a charge sheet against the petitioner. The petitioner then files an application seeking his discharge from the case, on the score that neither the complaint nor the charge sheet did make out any offence. The charge sheet is filed only on the statements of the victim recorded under Sections 161 and 164 of the CrPC. They are divergent and the crime was registered after 2 years of the alleged incident. The discharge application is rejected by the concerned Court in terms of its order dated 22-11-2025. It is this that drives the petitioner-accused to this Court in the subject petition.

3. Heard Sri Rajaram S, learned counsel appearing for petitioner and Smt Deepthi Alva, learned High Court Government Pleader appearing for respondent No.1.

4. The learned counsel for the petitioner would submit that the incident that is narrated has not even happened. The statement recorded by the Investigating Officer at the time of



investigation does not directly point at the petitioner. There is no record to show that the petitioner had invited the complainant and had indulged in the alleged crime. In the light of no material evidence, the offence under POCSO Act cannot even be sustained. He would further submit that the complainant has sought to register the complaint after 2 years from the date of the alleged incident. He would seek quashment of the proceedings pending in Spl. Case No.219 of 2025.

5. Per contra, the learned High Court Government Pleader would submit that there are serious allegations against the petitioner of indulging in aggravated sexual intercourse upon the victim who is 10 years old and the petitioner being a 44 years old man. She would seek dismissal of the petition.

6. I have given my anxious consideration to the submissions made by the learned counsel for the respective parties and have perused the material on record.



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7. The afore-narrated facts are a matter of record. A complaint comes to be registered by the complainant herself, a child of 10 years of age. The gist of the complaint is as follows:

"ಸದರಿ ಪ್ರಕರಣದ ಪರ್ಯಾಯದಾರರಾದ ಕು|| XXXXX ಬಿನ್ XXXXX 09 ವರ್ಷ 11 ತಿಂಗಳು ಇವಳು ಶಿವಮೊಗ್ಗ ತಾಲ್ಲೂಕು ಮೈಸವಳ್ಳಿ ಗ್ರಾಮದ ವಾಸಿಯಾಗಿದ್ದು, ಇವಳು ತಮ್ಮ ತಂದೆ ತಾಯಿಯ ಒಟ್ಟು ಮೂರು ಜನ ಮಕ್ಕಳಲ್ಲಿ ಹಿರಿಯ ಮಗಳಾಗಿರುತ್ತಾಳೆ. ಕು|| XXXXXಳು ಮೈಸವಳ್ಳಿ ಗ್ರಾಮದಲ್ಲಿ 04 ನೇ ತರಗತಿ ಪಾಸಾಗಿ 05 ನೇ ತರಗತಿಗೆ ಹೋಗಬೇಕಾದ ಸಮಯದಲ್ಲಿ ಈಗ್ಗೆ 2 ವರ್ಷದ ಹಿಂದೆ ಶಾಲೆಗೆ ರಜೆ ಇದ್ದ ಸಮಯದಲ್ಲಿ ಇವರ ಮನೆಯ ಮುಂದೆ ವಾಸವಾಗಿರುವ ಅಶೋಕ ಎಂಬುವವನು ಕು|| XXXXಳಿಗೆ ವಿಮಲ್ ತೆಗೆದುಕೊಂಡು ಬಾ ಎಂದು ಹಣ ಕೊಡುತ್ತಿದ್ದನು. ಆ ಸಮಯದಲ್ಲಿ ಆತನ ಹೆಂಡತಿ ಕೂಲಿ ಕೆಲಸಕ್ಕೆ, ಹೋಗುತ್ತಿದ್ದರು, ಆತನ 02 ಮಕ್ಕಳು ಹಾಸ್ಟೆಲ್ ನಲ್ಲಿ ಓದುತ್ತಿರುತ್ತಾರೆ, ಕು|| XXXXಳು ಅಶೋಕನ ಮನೆಯ ಒಳಗಡೆ ಹೋದ ನಂತರ ಅಶೋಕನು ಬಾಗಿಲು ಮುಚ್ಚಿಕೊಂಡು ಕು|| XXXXXXಳ ಕೈ ಹಿಡಿದು ಎಳೆದುಕೊಂಡು ನಡು ಮನೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಅವಳ ಮೇಲೆ ಲೈಂಗಿಕ ದೌರ್ಜನ್ಯ ಮಾಡಿರುತ್ತಾನೆ, ಈ ವಿಚಾರವನ್ನು ಕು|| XXXXXಳು 02 ವರ್ಷದ ಹಿಂದೆ ತನ್ನ ತಾಯಿ XXXXಗೆ ತಿಳಿಸಿದಾಗ ಅವರು ತನ್ನ ಗಂಡ XXXXನಿಗೆ ತಿಳಿಸಿದ್ದು, XXXರವರು ಉರಿನಲ್ಲಿ ಮರ್ಯಾದೆ ಪ್ರಶ್ನೆ ಎಂದು ಈ ವಿಚಾರವನ್ನು ಯಾರಿಗೂ ತಿಳಿಸಿರಲಿಲ್ಲ. ನಂತರ ಅಶೋಕನಾಯ್ಕ ನು ನಾನು ತೊಂದರೆ ಕೊಟ್ಟಿರುವ ವಿಚಾರವನ್ನು ಯಾರಿಗೂ ಹೇಳಬೇಡವೆಂದು ಕು|| XXXXXಳಿಗೆ ಹೆದರಿಸಿರುತ್ತಾನೆ. ಕು||XXXXಳು ಹೆದರಿ ಈ ವಿಚಾರವನ್ನು ಯಾರಿಗೂ ಹೇಳದೆ ಸುಮ್ಮನಾಗಿರುತ್ತಾಳೆ. ಈ ಘಟನೆ 2023 ರ ಮೇ ತಿಂಗಳಲ್ಲಿ ಶನಿವಾರ ಮತ್ತು ರವಿವಾರ ನಡೆದಿದ್ದು ಕು|| XXXXXಳಿಗೆ ದಿನಾಂಕ ನೆನಪಿರುವುದಿಲ್ಲ ಆದ್ದರಿಂದ ಮೇಲ್ಕಂಡ ಅಶೋಕನಾಯ್ಕ ಈತನ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕು|| XXXXಳು ನೀಡಿದ ಹೇಳಿಕೆ ದೂರಿನ ಮೇರೆಗೆ ದಾಖಲಿಸಿದ ಪ್ರ.ವ.ವರದಿ."

The gist of the complaint is that the accused called the victim inside the house, locked the room and committed the act of alleged rape. The statement of the complainant recorded is as follows:

"ದಿನಾಂಕ 24/03/2025



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ನಾನು ಈ ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಾಗಿರುತ್ತೇನೆ. ನಮ್ಮ ತಂದೆ ತಾಯಿಗೆ 03 ಜನ ಮಕ್ಕಳಿದ್ದು 2 ಹೆಣ್ಣು ಮತ್ತು 01 ಗಂಡು ಮಗು ಇದ್ದು ನಾನು ನನ್ನ ತಂದೆಗೆ ಹಿರಿಮಗಳಾಗಿರುತ್ತೇನೆ ನಾನು ಸರಕಾರಿ ಕಿರಿಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆ ಮೈಸವಳ್ಳಿಯಲ್ಲಿ 04ನೇ ತರಗತಿ ಪಾಸಾಗಿ 05ನೇ ತರಗತಿ ಹೋಗಬೇಕು ನಾನು ಈಗ 02 ವರ್ಷದ ಹಿಂದೆ ನನಗೆ ಶಾಲೆ ರಜೆಯ ಸಮಯದಲ್ಲಿ ನಮ್ಮ ಮನೆಯ ಮುಂದೆ ಇರುವ ಅಶೋಕ ಎಂಬುವವನು ನನಗೆ ವಿಮಲ್ ತೆರೆದುಕೊಂಡು ಬಾ ಎಂದು ನನಗೆ ಹಣ ಕೊಡುತ್ತಿದ್ದನು ನಮ್ಮ ಮನೆಯಿಂದ ಹಿಂದಿನ ಕಡೆ ಹೋಗಿ ವಿಮಲ್ ತೆಗೆದುಕೊಂಡು ಬರುತ್ತಿದೆ ಆ ಸಮಯದಲ್ಲಿ ಅವರ ಹೆಂಡತಿ ಕೂಲಿ ಕೆಲಸಕ್ಕೆ ಹೋಗುತ್ತಿದ್ದರು ಅವರಿಗೆ 02 ಮಕ್ಕಳು ಹಾಸ್ಟೆಲ್‌ನಲ್ಲಿ ಓದುತ್ತಿದ್ದಾರೆ ನಾನು ಒಳಗಡೆ ಹೋಗಿದ ನಂತರ ಅಶೋಕನು ಬಾಗಿಲು ಮುಚ್ಚಿಕೊಂಡು ನನಗೆ ಕೈ ಹಿಡಿದು ಎಳೆದುಕೊಂಡು ನಡು ಮನೆಯಲ್ಲಿ ಕರೆದುಕೊಂಡು ನನ್ನ ಮೇಲೆ ಲೈಂಗಿಕ ದೌರ್ಜನ್ಯ ಮಾಡಿರುತ್ತಾನೆ ಈ ವಿಚಾರ 02 ವರ್ಷದ ಹಿಂದೆ ನಮ್ಮ ತಾಯಿಯಾದ XXXXX ಅವರಿಗೆ ತಿಳಿಸಿದಾಗ ನಮ್ಮ ತಾಯಿ ನಮ್ಮ ತಂದೆಯವರಾದ XXXX ರವರಿಗೆ ತಿಳಿಸಿದ್ದು ನಮ್ಮ ತಂದೆ ಉರಿನಲ್ಲಿ ಮಾರ್ಯಾಥೆ ಪ್ರಶ್ನೆ ಎಂದು ಈ ವಿಚಾರವನ್ನು ಯಾರಿಗೂ ತಿಳಿಸಿರಲಿಲ್ಲ.

ನಂತರ ಅಶೋಕ ನಾಯ್ಕನು ನನಗೆ ನಾನು ತೊಂದರೆ ಕೊಟ್ಟಿರುವ ವಿಚಾರವನ್ನು ಯಾರಿಗೂ ಹೇಳಬೇಡ ಎಂದು ನನಗೆ ಹೆದರಿಸಿದನು ನಾನೂ ಹೆದರಿ ಈ ವಿಚಾರವನ್ನು ಯಾರಿಗೂ ಹೇಳದೆ ಸುಮ್ಮನಾದೆ ಈ ಹಿಂದೆ 2023 ರಲ್ಲಿ ನಡೆದಿರುವ ಮೇ ತಿಂಗಳು ಈ ಘಟನೆ ಶನಿವಾರ ಮತ್ತು ರವಿವಾರ ನಡೆದಿರುತ್ತದೆ. ನನಗೆ ದಿನಾಂಕವು ನೆನಪಿಲ್ಲ ನನಗೆ ತೊಂದರೆ ಮಾಡಿದ ಅಶೋಕ ನಾಯ್ಕನ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ನನ್ನ ತಾಯಿಯಾದ XXXX ರವರ ಸಮಕ್ಷಮದಲ್ಲಿ ಈ ಹೇಳಿಕೆಯನ್ನು ಬಾಲಕಿಯರ ಬಾಲಮಂದಿರದಲ್ಲಿ ನೀಡಿರುತ್ತೇವೆ.

ನನ್ನ ಸಮಕ್ಷಮ ಸಹಿ/- ಪಿ ಎಸ್ ಐ	ದಸ್ತೂರ ಸಹಿ/- Wpc 1732	ಓದಲಾಯಿತು ಸರಿಯಿದೆ ಸಹಿ/- XXXXXX ಸಹಿ/- (ನೊಂದ ಬಾಲಕಿ ತಾಯಿಯ ಸಹಿ)
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ದಿನಾಂಕ 24/5/2025 ರಂದು 12.00 ಪಿ ಎಂ ಗಂಟೆಯಿಂದ 1.00 ಪಿ ಎಂ ಗಂಟೆಯವರೆಗೆ ಶಿವಮೊಗ್ಗ ಬಾಲಕಿಯರ ಬಾಲಮಂದಿರದಲ್ಲಿ ನೊಂದ ಬಾಲಕಿಯ ಹೇಳಿಕೆಯನ್ನು ಪಡೆದುಕೊಂಡು 1-45 ಪಿ ಎಂ ಗಂಟೆಗೆ ರಾಣಿಗೆ ವಾಪಾಸ್ ಬಂದು ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ರಾಜಾಧಿಕಾರಿಯವರಿಗೆ ನೀಡಿರುತ್ತೇ.

ಸಹಿ/-



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ದಿ ಎಸ್ ಐ

ದಿನಾಂಕ: 24/5/2025 ರಂದು 1-45 ಪಿ ಎಂ ಗೆ PSICO ಪಾರ್ವತಿಬಾಯಿ ರವರು ರಾಣಿಯಲ್ಲಿ
ನೀಡಿದ ನೊಂದ ಬಾಲಕಿಯ ಹೇಳಿಕೆ ದೂರನ್ನು ಸ್ವೀಕರಿಸಿ ರಾಣಾ ಮೊ ಸಂ 126/2025 ಕಲಂ
376(ಎ) & (ಬಿ) 506 ಐಪಿಸಿ ಸಹಿತ ಕಲಂ 04 & 06 PSICO Act 2012 ರೀತ್ಯಾ ಪ್ರಕರಣ
ದಾಖಲಿಸಿರುತ್ತೆ

ಸಹಿ/-

ಪೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್

ಕುಂದಿ ಪೊಲೀಸ್ ಠಾಣೆ

ಶಿವಮೊಗ್ಗ ಜಿಲ್ಲೆ 577423"

The police complete investigation and based upon the
statement of witnesses, file a charge sheet against the
petitioner. The summary of the charge sheet reads as follows:

"ಈ ಕೇಸಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ

ಕಲಂ 376(ಎ)&(ಬಿ), ಐಪಿಸಿ ಸಹಿತ ಕಲಂ 4 & 6 , ಪೊಕ್ಸೋ ಕಾಯ್ದೆ 2012

ದೋಷಾರೋಪಣ ಪಟ್ಟಿಯ ಕಾಲಂ ನಂಬರ್ 12 ರಲ್ಲಿ ಕಂಡ ಆರೋಪಿತನು ಈಗ್ಗೆ 02
ವರ್ಷಗಳ ಹಿಂದೆ 2023 ನೇ ಸಾಲಿನಲ್ಲಿ ಆತನ ಮನೆಯಲ್ಲಿ ಯಾರೂ ಇಲ್ಲದ ಸಮಯದಲ್ಲಿ ಸದರಿ
ಪ್ರಕರಣದ ನೊಂದ ಬಾಲಕಿಯಾದ ಸಾಕ್ಷಿ 01 ರವರಿಗೆ ಹಣ ಕೊಟ್ಟು ವಿಮಲ್ ತೆಗೆದುಕೊಂಡು
ಬರಲು ಹೇಳಿದ್ದು, ನಂತರ ಸದರಿ ಬಾಲಕಿ ವಿಮಲ್ ತೆಗೆದುಕೊಂಡು ಸದರಿ ಆರೋಪಿತನ ಮನೆಯ
ಒಳಗಡೆ ಹೋದ ನಂತರ ಆತನು ಬಾಗಿಲು ಮುಚ್ಚಿಕೊಂಡು ಅವಳ ಕೈ ಹಿಡಿದು ಎಳೆದುಕೊಂಡು
ಮನೆಯ ಹಾಲ್ ಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಅವಳ ಮೇಲೆ ಬಲವಂತವಾಗಿ ಲೈಂಗಿಕ ಸಂಪರ್ಕ
ಮಾಡಿ, ನಂತರ ಈ ವಿಚಾರವನ್ನು ಯಾರಿಗೂ ಹೇಳಬೇಡವೆಂದು ಸದರಿ ಬಾಲಕಿಗೆ ಬೆದರಿಕೆ
ಹಾಕಿರುವುದು, ಇದುವರೆಗಿನ ತನಿಖೆಯಿಂದ ಸಾಬೀತಾದ ಮೇರೆಗೆ ಸದರಿ ಆರೋಪಿತನ ವಿರುದ್ಧ
ಮೇಲ್ಕಂಡ ಕಲಂಗಳ ರೀತ್ಯೆ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಿದ ದೋಷಾರೋಪಣ ಪಟ್ಟಿ."

A perusal at the complaint and the summary of the charge
sheet would indicate that the petitioner-accused in a closed



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door, pulls the victim complainant and has forcibly had sexual intercourse with her. As observed, the petitioner is 42 years and the victim was 8 years at the time of the incident. Therefore, the offences under Section 376AB and POCSO have sprung.

8. The petitioner files an application seeking discharge on the score that the statements recorded under Sections 161 and 164 of the CrPC are the only the basis for filing the charge sheet and the DNA report would not support the case of the prosecution. The concerned Court rejects the discharge application by order dated 22-11-2025, on the following reasons:

"REASONS

Point No.1:-

15. It is the case of the prosecution that accused committed the offenses punishable under Sec. 376AB, 506 of IPC and the offenses punishable under sections 6 of Protection of Children Sexual Offenses Act, 2012. Prosecution alleged that accused committed the above said offense against minor victim girl who is under the age of 12 years. From the prosecution papers it is clear that informant being the minor victim informed the police that she had been sexually abused and exploited by the accused. The prosecution papers reveals that the I.O during the investigation recorded the statements of the



alleged victim and the statements of other witnesses. The said recorded statements denotes that accused directly involved in the crimes alleged. The statement of the alleged victim girl recorded under Sec. 161 and 164 of Cr.P.C are almost supplementary to each other. Further there are materials on record to show that accused invited alleged victim girl. The information furnished, FIR registered, statements of the witnesses recorded, the mahazars conducted, the documents secured discloses that accused involved in the crimes alleged committed against the alleged victim.

16. It is the case of the accused that there is a long delay in furnishing the information and there is no valid explanation. It is true that after a gap years together from the date of alleged incident, the matter has been reported to the police. But the prosecution as alleged by the Spl. Public Prosecutor may give the explanation for the same in the trial. It is undisputed fact that the Magistrate recorded the statement of the alleged victim girl. The said statement of alleged victim girl is almost similar to the statement of alleged victim girl made before the Women Police Officer. It is not the case of the accused that as on the day of the recording of the said statement, the alleged victim was a major. When the alleged victim being a minor makes statements before I.O and before Magistrate regarding commission of some offenses against her, unless legal scrutiny of the said statements it is not possible to conclude that the wrong doer is an innocent. The legal scrutiny of the statements can be done only by holding the trial and hence, till conclusion of the trial it is not possible to say that the recorded statements of the victim girl are false. Hence, at this stage, it is not possible to say that no offense was committed against the minor victim girl. Accused not seriously disputed that the alleged victim girl is not his neighbour and not came to in his house during few nights.

17. Further accused contended that the medical records not in favour of prosecution It is needless to say that the report of DNA analysis is just an opinion of an expert, and not a conclusive proof. The legal scrutiny of the said medical report is necessary and that can be



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achieved only by holding the trial. Therefore, at this stage, it is not possible to hold that there are no grounds to frame the charges against the accused for the alleged offenses.

18. The Hon'ble Apex Court of India in **Crl Appeal No. 3175/2024** in the matter of the **State of Orissa v/s Prathima Behera** analysed its earlier verdict laid down in a case reported in **(1986) 2 SCC 716** in the matter of **R.S. Nayak v/s A.R. Anthulay and another**. In the said case the Hon'ble top Court of India observed that

The legal position is well settled that at the stage of framing of charge, the trial Court is not to examine and assess in details the materials placed on record by the prosecution nor is it for the Court to consider the sufficiency of materials to establish the offenses alleged against the accused persons. At the stage of charge, the Court has to examine the materials only with a view to be satisfied that a prima-facie case of the commission of the offenses alleged has been made out against the accused persons.

19. The order of Hon'ble Supreme Court made in the Criminal Appeal No. 3175/2024 makes the above said ratio is still suitable and valid. In view of the said ratio/verdict, the application of the accused is lacks in the merits. In other words, accused not established the grounds to discharge him from the prosecution.

20. The Hon'ble Supreme Court of India in a case reported in **2025 AIAR (CRL) 474** in the matter of **Jaspal Singh Kaural v/s State of NCT of Delhi and others** held that- It is trite law that at the time of framing the charge a mini trial is not possible and the trial Court has to proceed with the material brought on record by the prosecution and determine whether the facts emerging from the material taken on its face value, disclose the existence of the ingredients necessary of the offense alleged. In this case, the information/statements furnished to the police, FIR issued, little bit medical records etc, being part of the charge sheet says that the offenses alleged have been committed against the victim



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girl. Therefore, it is not possible to hold that there are no grounds to frame charges against the accused. Thus, discharge of the accused is not possible. Accordingly for the reasons as stated above, my answer to the point no. 1 is in the **Negative**.

Point No.2:-

21. In view of my above said answer, I proceed to pass the following;

ORDER

The application filed under Section 250 of BNSS, 2023 by the accused is hereby rejected."

9. If the complaint, the summary of the charge sheet and the order on the application for discharge are read in tandem, what would unmistakably emerge is the necessity of a trial in the case at hand. It is for the petitioner to come out clean in a full blown trial. There is no warrant of interference in a case of this nature in exercise of jurisdiction under Section 528 of the BNSS.

Petition lacking in merit, stands **rejected**.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

BKP/List No.: 1 Sl No.: 22