

**IN THE COURT OF THE III ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE AT BENGALURU.**

**Present : Shreyansh Doddamani
III ADDL. C.M.M., BENGALURU.**

Dated this the 16th Day of May, 2024

CC No.1994/2022

**Complainant : State by Yeshvanthpur Police
Station, Bengaluru.**

(Represented by Sr. APP)

V/s

**Accused : 1. Smt.Vijayalakshmi Ghantasala
W/o Late Srinivasamurthy
Ghantasala,
Aged about 75 years,
Residing at No.480,
6th Main, HMT Layout,
RT Nagar,
Bengaluru.**

(Repted., by O.Rajanna, Adv.,)

**ORDER ON APPLICATION UNDER SECTION 239 OF
CRIMINAL PROCEDURE CODE**

The accused No.1 has filed application under section 239 of Criminal Procedure Code for discharge her for the offences punishable under section 406, 417, 420 and 468 of Indian Penal Code.

2. In the application it is contended that the accused is the mother of the complainant. The complainant filed complaint against the accused in respect of vehicle bearing No.KA-04-MF-830 Mahindra Logan. After the death of

complainant's father forged his signature in vehicle transfer NOC papers transferred the said vehicle in her name. The investigating officer without investigated the matter properly filed false charge sheet. The complainant alleged that he was residing at US. The accused persons with an intention to cheat him got transferred the properties in their name by forged his signature after death of his father. The complainant filed similar complaint at RMC Yard Police Station, wherein the investigating officer submitted 'B' report. Thereafter, lodged complaint before RT Nagar Police Station on 16.12.2017 as NCR. Second complaint lodged before RMC Yard Police Station on 31.08.2018 and NCR issued and same was closed on 03.09.2018. In the RT Nagar Police station in Crime No.174/2018 the investigating officer submitted 'B' report. The complaint also lodged complaint before Yeshvanthpur Police station in Crime No.268/2018, wherein the investigating officer submitted charge sheet against the accused No.1 for the offences punishable under section 420, 468, 417, 406 and same is pending before this court. The complaint also lodged before Girinagar Police Station, CCB Police Bengaluru City, Pulakeshi Nagar South CEN Police Station. The allegations made against the accused persons are purely civil in nature. The civil suit is also pending before the Civil Court for the relief of declaration of title in OS No.26116/2017. In the said suit Hon'ble Court granting status quo order. Therefore, the complainant was frustrated and lodged complaint. The said vehicle was purchased by Smt.Leelavathi for her father in his name, the said vehicle stood in complainant's father's name. The

complainant has not bought the vehicle to his father and all the three children of the accused are staying in abroad. The complainant is residing in USA, the elder daughter is residing in Australia. The younger daughter is staying in the USA. Nobody is there with the accused since her husband demise. She is looking herself. Daughters used to visit yearly once to look after their mother, so that the vehicle should be transferred in her name. The complainant has given his consent to get transfer the RC of the said vehicle in her name. The complainant sent some documents to transfer the vehicle to her name from the USA in the year 2016. She transferred the vehicle in her name but the complainant had not revealed these facts before the investigating officer or in his complaint. The complainant used to sign three more different manner and he is using the same technique. The complaint filed against her in order to harass the accused and his sister. The charge submitted by the Police based totally on unfounded assumptions. The investigating officer has not correctly assessed the nature of dispute between the parties and in a mechanical manner filed the charge sheet. There is no ground for presuming that the accused is guilty. The complaint filed with a malafide intention, the same is maliciously instituted with an ulterior motive for wrecking vengeance against the accused. The accused is from a respectable family and if the accused is not discharged from the above case, the accused will put to great hardship, loss and injury and prayed to allow the application.

3. The learned Sr.APP has filed objection to the above application by denying the contents of application and contended that the application is not maintainable either in law or on facts and reiterated the contents of the complaint. The Police have filed charge sheet against the accused persons for the offences punishable under section 406, 417, 420, 468 read with section 34 of IPC. After registration of the case the IO collected the relevant documents regarding involvement of the accused persons for framing the charge. The learned Sr.APP also relied citation (2020) 1. Supreme Court Cases (Cri) 581, (2020) 2. Supreme Court Cases 217. The accused have not made out any tenable ground to seek discharge. The evidence collected by the IO at the time of framing of charge need not to be considered meticulously. Truth and veracity of the evidence need not to be taken into consideration while framing the charge. The accused have not made out any tenable ground to seek discharge. Hence, prayed to reject the application.

4. The defacto complainant appeared through advocate by filing application under section 301(2) of Cr.PC and filed written arguments and prayed to dismiss the application under section 239 of Cr.PC filed by the accused and relied on various decisions of Hon'ble High Court of Karnataka and Hon'ble Supreme Court of India.

5. Heard the arguments on both side. Perused the materials on record.

6. The point that arises for the consideration of the court is as under;

1. Whether the application filed by the accused No.1 is deserves to be allowed?

2. What order?

7. Perused the records. The above point is answered in the **Negative** for the following;

REASONS

8. **Point No.1:** This case is arising out of the Police report based on the basis of information given by the complainant Sri.Srikanth Ghantasala. It is alleged that one Sri.Srinivasamurthy Ghantasala was owner of car Mahendra Logon bearing No.KA-04-MF-830. He died on 09.11.2015. The complainant was in US. In his absence the accused forged his signature and got transfer the said vehicle in her name and thereby the accused has committed the above offences.

9. It is specific case of the complainant that the accused person with an intention to cheat him got transferred the said car in her name by forged his signature after death of his father. On perusal of the documents initially the said car was registered in the name of father of complainant and who is the husband of accused. After the death of the father of complainant when the complainant was in US, the accused along with her daughter ie., sister of complainant got created

the NOC as the complainant was having no objection to transfer the said car in the name of accused by forged his signature got transferred the said car. It clearly attracts section 404, 465, 468 and 471 of IPC.

10. During the investigation the investigating officer got seized the original documents. It appears that the accused have issued no objections for transfer vehicle to the RTO officer, wherein forged the signature of complainant. During the investigation the investigating officer collected the specimen signature of complainant and accused persons and sent to the FSL for expert's opinion. As per the expert's opinion report the signature appeared in the no objections certificate are the signatures is not belongs to the complainant. It clearly attracted section 468 of IPC. Whether the above offences are attracted or not is to be decided only after the full fledged trial. On perusal of the materials on record there are sufficient materials to frame the charge for the offence punishable under section 404, 406, 420 and 468 of IPC.

11. The accused have filed this application by stating that the above matter is purely civil in nature and offences are not attracted. No doubt, the complainant and accused belongs to same family but there are sufficient materials to come to the conclusion that forgery has been committed and got transferred the property of deceased. There are sufficient materials to show that the signature of complainant was forged. In such circumstances the Court at this stage not

looked into the documents produced by the accused persons even though civil suit is pending in the present case. There is sufficient materials to frame the charge of above offences. The accused are at liberty to take the above grounds as a defence. But above grounds is not sufficient to discharge them for the above offences. Hence, this Court is answered point No.1 in the Negative.

12. **Point No.2:-** In view of the above decision, this Court has proceed to pass the following:

//ORDER//

**The Application filed by the
accused under section 239 of Code of
Criminal Procedure is hereby rejected.**

For charge 25.06.2024.

(Dictated to the stenographer, transcribed him on computer, corrected and then signed and pronounced by me in the open court on this the 16th day of May, 2024)

III ACMM, Bengaluru.