

IN THE COURT OF THE IV ADDL. CHIEF JUDICIAL MAGISTRATE,
AT BENGALURU.

Dated this the 6th day of March 2026

Present:-

Sri.SOMANATHA, B.A. (Law), L.L.B.,
IV Addl. Chief Judicial Magistrate,
Bengaluru.

CC NO.22308/2012

Complainant State by Chickpete Police Station,

V/s

Accused-1 Sri. Ramesh,
Branch Manager,
Indian Over Seas Bank Ltd,
No.356, 9th Main,
24th Cross, BSK II Stage,
Bengaluru.

ORDERS ON DISCHARGE APPLICATION

Accused No.1 filed instant application seeking an order for discharge from the case on the ground that no complaint whatsoever nature was lodged to the any Police authorities before filing private complaint before the Court. No explanation has been offered by the private complaint directly filed before the Court. The offence alleged to have been taken place on 21-4-2007. The complainant filed the private complaint after 2 years 2 months 20 days. The complainant has not sought for

condonation of delay by filing appropriate application. The accused No.2 and 3 were treated as witness to the case. The charge sheet has been filed only against the present accused who is the drawer of the cheque and legal representatives of the deceased drawees of the cheque in question. All statement recorded points out negligence committed by accused No.2 and 3. He has been unnecessarily implicated in the present case though he has not committed any offence with an intention to protect its customer accused No.6. The complainant bank already dismissed the accused No.2 and 3 from the service after conducting domestic enquiries before filing the present complaint.

2. Sr. APP filed objections contenting that there are material in the complaint about how the accused No.1 committed the offence, evidence collected by the Investigating Officer sufficient to frame charge, accused No.1 has not shown charges are groundless and truthfulness or otherwise of the evidence cannot be seen at this stage.

3. Heard arguments and perused the records.

4. The following point is arise for consideration:

**Whether the accused No.1 has made out
that charge is groundless?**

5. The above point is answered in the **NAGATIVE** for the following:

REASONS

6. Private complaint clearly indicate that accused No.1 credited the two cheques amount of Rs.38,00,000/- and 38,10,000/- presented by accused No.1 M/s Adithya even before it was sent for clearance and received by complainant through APEX Bank. Accused No.1 illegally granted over draft facility to M/s .Adhidya beyond his authority and took advantage of cheque by crediting it to M/s Adhitya Account to reduce the gravity of his own wrong action. Accused No.1, 4 and 5 intentionally avoided the sending of cheque with the cheque return memo within the stipulated period. Under such circumstances there are sufficient material to frame charge against the accused No.1 for the offences alleged in the charge sheet.

7. Accused raised a first contention that Sec.154(1) and 154(3) Code of Criminal procedure has not complied while filing the private complaint

8. The accused No.1 did not take up a contention of non compliance of Sec.154(1) and 154(3) Code of Criminal procedure when he had approached the Hon'ble High Court of Karnataka for quashment of the proceedings pending against him. In other words, the accused No.1 never raised a contention of non-complaine of Sec. 154(1) and 154(3) Code of Criminal procedure in the course of the investigation of the case. The complainant has raised the contention of non complainace of Sec.154(1) and 154(3) Code of Criminal procedure after filing the chargesheet by the police in the present discharge application for the first time before this Court. Sec.154(1) of Cr.PC., Mandates that every

information regarding cognizable offence given to a Police Officer incharge must be reduced to writing, signed by the informant, read over to him and recorded in a prescribed book, with a free copy given to informant. Sec.154(3) tells that any person aggrieved by a refusal on the part of the Officer incharge of a Police Station to record the information referred to in sub section (1) may send the substance of such information, in writing and by post to the Superintendent of Police is satisfied that cognizable offence occurred, he shall investigate it himself or direct an investigation by Police Officer subordinate to him. The present private complaint lodged before the Court on 11-08-2009. In the case of Priyanka Srivatsava and another V/s State of Uttar Pradesh and others Land Mark Judgement of the Hon'ble Supreme Court of India reported on 19-03-2015 made a observation at para 27 of the Judgement that a stage has come in this country where sec.156(3) of Cr.P.C., applications are to be supported by an affidavit duly sworn by the applicant who seeks invocation of the jurisdiction of the Magistrate. There has to be prior applications of u/s.154(1) and 154(3) while filing petition u/s.156(3). So the contention of the accused No.1 that he shall be discharged on the ground of non compliance of sec.154(1) & 154(3) of code of criminal procedure must not sustain.

9. Accused No.1 has raised next contention that no explanation has been offered for 2 years 2 months 20 days delay in filing the private complaint. Para 32 of the private complaint clearly reflects that even though the incident took place during the year 2007, the complainant could not/and was not able to file this complainant in the same year as he had to comply with the

banking laws to collect the material and to do the formalities. Thereby, the complainant has offered explanation why there was delay in filing the private complaint. Whether such a explanation is satisfactory or not must be decided after a full pledged trial. So the accused No.1 cannot be discharged on the ground that no explanation has been offered for delay in filing complaint.

10. Accused No.1 raised another contention that all statement recorded points out negligence committed by accused No.2 and 3 and he has been unnecessarily implicated in the present case though he has not committed any offence with an intention to protect the accused No.6 who is customer of complainant bank,.

11. When the Hon'ble High Court of Karnataka quashed the criminal proceeding against accused No.1 the complainant had approached the Hon'ble Supreme Court of India. Hon'ble Supreme Court of India opined that merely because some of the persons who might have committed the offence are not chargesheeted cannot be a ground to quash the proceedings against the accused chargesheeted after having found case against him after investigation and ordered accused No.1 be further prosecuted for the offences for which he was chargesheeted and shall face trial which shall be dealt with and considered in accordance with law and on its own merits in the Judgement of CrI.A.No.1535/2021 dated: 9-12-2021. Thereby, contention raised by the accused No.1 that the accused No.2, 3 were treated as witness and case prosecuted against him to protect the accused No.6 must not sustain.

12. Full pledged trial is required to come to the conclusion that whether the accused No.1 has committed offence or not. So, the accused No.1 is failed to demonstrate that charges are groundless. Therefore, the afore-mentioned Point is answered in the **NEGATIVE** and I pass the following:

ORDER

**An application filed by the accused
No.1 under Section 239 of Cr.P.C., is
rejected.**

(Dictated to the Stenographer directly on the computer, typed by him, corrected by me and then pronounced by me in the open Court on this the 6th day of March 2026)

(SOMANATHA)
IV Addl. Chief Judicial Magistrate,
Bengaluru.