

**IN THE COURT OF II ADDL.DISTRICT AND
SESSIONS JUDGE, BENGALURU RURAL
DISTRICT, BENGALURU.**

Spl.C.NO.48/2018

COMPLAINANT : STATE BY
ANEKAL POLICE

V/s

ACCUSED :CHANDRASHEKAR & OTHERS

ORDERS ON APPLICATION U/s.227 of CR.P.C.

Accused No.1 has come up with the present application under Sec.227 of Cr.P.C. seeking order to discharge him for the offences alleged in the interest of justice.

2. In the application, it is narrated that the first informant lodged the false complaint, on the strength of the false complaint, the complainant police have registered the FIR. in Cr.No.173/2017, for the offence punishable

u/s.302 of IPC. and sec.3(2)(v) of SC/ST Act. After the investigation, they have also submitted the charge sheet against accused No.1. As per the police papers, one Venkatesha Vice president of Gram Panchayath, disclosed that on 11.10.2017 at about 9.15 pm. while he was proceeding towards Anekal from Sunawara Basavanapura road, by that time, some public gathered at Narayanareddy cross road, he saw the dead body of male aged about 32 to 35 years and found injuries on the body and confirmed that, that person was murdered by someone else. He informed to the complainant police to take necessary action against the culprits, but no eye witnesses to the incident, only on the circumstantial evidence and voluntary statement, accused was falsely implicated. Without proper investigation, the complainant police have submitted the charge sheet against the accused No.1. It is created and concocted theory of the prosecution. Crl.proceedings

initiated against him with malafide intention and ulterior motive. Viewed from any angle, the registration of the case by the police against accused NO.1 is without any iota of evidence. Hence, prays for allowing the application filed by accused No.1 and discharge him for all the alleged offences.

3. The prosecution for the State has filed objections and taken a specific defence that the deceased belongs to SC/ST community, accused No.1 also belongs to the schedule tribe, but accused No.2 and 3 belongs to kuruba community. As per the prosecution paper, accused Nos.1 to 4 accompanied with the deceased in a Hero Honda splendor motor cycle belongs to accused No.2, on the alleged date of incident, exchange of words between accused No.2 with the deceased by that time, accused NO.1 assaulted the deceased with hands when he fallen on the earth accused No.1 himself

assaulted with club on his face and head by that time, accused No.2 snatched club from the hands of accused NO.1 assaulted with the same club on the face of the deceased. Even accused NO.3 assaulted with same club due to bleeding injuries, he died at the spot. On the strength of the circumstantial evidence, the complainant police have submitted the charge sheet. There are ample materials against accused NO.1. When the offence is punishable with death or imprisonment for life, which punishable u/s.302 of IPC., under such circumstances, discharge the accused on the ground that on eye witnesses does not arise. Hence, prays for rejection of the application in the interest of justice and equity.

4. Heard arguments of both sides.
5. The Points for consideration are as follows:
 1. Whether the accused No.1 has made out a ground to discharge them for the offences as alleged in the police papers at this stage?

2.What order?

6. My answer to the above points are as follows:

1. Point No.1: In the Negative
2. Point No.2:As per the final order for the following:

REASONS

7.POINT NO.1: On perusal of the entire police records, the first informant lodged the false complaint, on the strength of the false complaint, the complainant police have registered the FIR. in Cr.No.173/2017, for the offence punishable u/s.302 of IPC. and sec.3(2)(v) of SC/ST Act. After the investigation, they have also submitted the charge sheet against accused No.1. As per the police papers, one Venkatesha Vice president of Gram Panchayath, disclosed that on 11.10.2017 at about 9.15 pm. while he was proceeding towards Anekal from Sunawara

Basavanapura road, by that time, some public gathered at Narayanareddy cross road, he saw the dead body of male aged about 32 to 35 years and found injuries on the body and confirmed that, that person was murdered by someone else. He informed to the complainant police to take necessary action against the culprits. On the basis of the above said allegation, the first informant lodged the complaint. On the basis of that complaint, the complainant police registered the FIR. after the completion of the investigation, they have also submitted the charge sheet, for the offences u/s. 302 of IPC. and sec.3(2)(v) of SC/ST Act.

8. Before framing charge, accused No.1 has come up with the present application and contended that there are no eye witnesses to the incident, only on the basis of the circumstantial witnesses, the complainant police have submitted the charge sheet, but the prosecution

paper reflects that accused NO.1 as well as remaining accused were friends of the deceased, who belongs to the schedule caste. On 10.10.2017 at about 8.00 p.m. after consuming alcohol, accused No.1 alongwith other accused and deceased were proceeding near the land of one Narayanareddy within the Basavanapura village limits, by that time, deceased picked up quarrel with the deceased to draw him back to Anekal. Being irritated by that, accused Nos.1 & 3 assaulted on the head and face of the deceased with club. On perusal of post mortem report, it results that death was due to head injury. P.M. conducted on 7.11.2017 in between 3.00 p.m. to 3.45 p.m. The injuries sustained to the scalp and vertebra are clearly mentioned in the P.M.Report. Fracture and dislocation of body of mandible on the left side, fracture and dislocation of left temporal mandubular joint, fracture and dislocation of maxilla on both sides, fractures ends show blood extravasation, as per the

opinion of the doctor, all injuries are anti-mortem nature and death is due to crush injury to the head. As per P.F.No.144/2017, dtd:11.10.2017, club also seized by the police official. The voluntary statement of the accused No.1 also recorded. By that time, accused No.1 himself informed the Investigation Officer that club used by him and other accused with an intention to assault the deceased thrown by him near Dabbagudi temple. On the basis of that voluntary statement, that club was seized and recovered by the police officials, remaining accused also during the course of their voluntary statement they have informed about the facts relating to the weapon used by them. As per the information and as shown by accused NO.1 and other accused, the complainant police have recovered that weapon. No doubt, no eye witnesses to the incident, but circumstantial witnesses which collected during the course of investigation, reflects that deceased was

accompanied with accused NOs.1 to 4 much earlier to his murder. In some of the offences which punishable u/s.302 f Ipc. no eye witnesses to incident. 90% of the cases depending upon the circumstantial evidence. Only during the course of trial, it is possible for the court to search for truth with respect to the allegation made against the accused NO.1 , it is not possible for this court to come to a conclusion that no offences made out against accused NO.1. Only after framing charges on the basis of the relevant material produced by the prosecution during the course of trial, the court is in a best position to come to a correct conclusion.

9. Due to the present application, on careful perusal of the wordings as spelt out in Sec.227 of Cr.P.C. which reads thus:

“If upon consideration of the record of the case and the documents

submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing”.

10. In view of the above said discussion, the prosecution has made out a ground for rejection of the application filed by the accused No.1. On the other hand, the accused No.1 has utterly failed to make out any ground to discharge him for the offence alleged against him. Under such circumstances, the available materials during the course of investigation collected by the Investigation Officer is sufficient to frame charge against the accused No.1. There is no ground to discharge the accused No.1 for the alleged offences. Hence, I answer Point No.1 in the Negative.

11. **POINT NO.2**: In view of my finding on the above said point and having regarding to the facts and circumstances of the case, I proceed to pas the following order:

ORDER

The application filed by the accused No.1 u/s.227 of Cr.P.C. is hereby rejected.

(Dictated to the Judgment Writer on online computer, thereof corrected by me and then pronounced in the open court on this the 13th day of November 2020).

(G.S.PRASEELA KUMARI)
II Addl.District & Sessions Judge,
Bengaluru Rural District,
Bengaluru.