

**THE COURT OF THE ADDL CIVIL JUDGE & JMFC, AT
DODDABALLAPURA**

:PRESENT:

**Smt. Preethy K., LL.M.,
ADDL. CIVIL JUDGE & JMFC.,
At DODDABALLAPURA**

Dated this the 11th May, 2026

CC No.1984/2020

Complainant:- The State
R/by Doddabellavangala P.S.

-V/s-

Accused :-

1 Sri. Vinod Kumar.K
S/o Krishnappa
Aged about 20 years
R/at: Palangogahalli,
Doddaballapura Town
Bengaluru Rural District

2. Sri. Mohammad Shafi
S/o Buden Sab
Aged about 23 years
R/at: C/o Santhosh,
Near Tata Show Room,
Palangogahalli,
Doddaballapura Town
Bengaluru Rural District

ORDER ON IA FILED UNDER SEC.239 of CRPC.

The accused No.1 and 2 have filed this application to discharge them from this case.

2. In the application it is stated that, the complainant police utterly failed to apply mind on the complaint averments made by the complainant. The complaint averments are too vague and the gravity of

the allegation made against the accused in the complaint viewed from any angle will not attract the provisions under Section 380 of IPC. The complainant police failed to note that, the averments made in the complaint are only with inimical intention and it is falsely foisted with malafide intention of harassing accused No. 1 and 2. The complaint is an abuse of process of law. The complainant police did not collect material evidence to prove the allegations beyond reasonable doubt. The entire case is based on false accusations made by the complainant. The case cannot be taken to the logical ends of convicting the accused No. 1 and 2 for the offences levelled against them. The complaint filed by the complainant is pre-determined and an afterthought and is based on imagination and suspicion. The complainant planned to implicate the accused in this false case. The accused No. 1 and 2 are innocent persons of the charges levelled against them and they are law-abiding persons and they do not have any criminal antecedents against them. The complainant has falsely implicated the accused persons only with an intention of harassing them, having a personal grudge and revenge against accused persons. There are no eye witnesses to the case and the complainant failed to bring his own wife or relatives as witnesses. The complainant filed the complaint as per his desire, colluding with the police. There is no prima facie case and the

allegations made against the accused are too vague, baseless and cannot be taken to logical ends based on the evidence. The entire case foisted against the accused is groundless. If the accused is not discharged at this stage by this court, grave injustice, legal injury, mental agony and hardship is caused to the accused, which cannot be compensated in terms of money. On perusal of the complaint registered on 26.02.2020 at about 08.00 p.m., the complainant has not submitted at what time and on what date the incident took place. As per the complainant himself, he is not sure about the date and timings and he is stating once it as 1½ months ago and again stating about 20 days ago and there is a heavy delay of 1½ months in filing the complaint. The complainant himself does not stand on his words in the complaint and the statement itself differs. The complaint shows that it is a pre-planned complaint lodged before the police. As per the complainant, the jewelry is stored in his house and in his wardrobe, which is normally locked with safe locker and now accusing upon third parties over the same is not believable. The complainant does not have any locus standi to file this complaint. No bills and photos of jewelries are produced before this court. There is no direct or indirect involvement of the alleged offences by the accused. Hence, the application.

3. The prosecution filed objection and contends that the application is not maintainable either in law or on facts. It is contended that the case is a warrant case and there are prima facie materials to proceed against the accused. The prosecution depends upon oral and documentary evidence to prove the accusation made against the accused. There are material evidences to prove the guilt of the accused. There are no any valid and sufficient reasons made out to discharge the accused. The application is filed only with a mala fide intention of protracting the proceedings. No materials are produced by the accused in support of their application. If the application is allowed, the prosecution is subjected to hardship and injury. Hence, prays for dismissal of the application.

4. Heard and perused.

5. The following Points arise for consideration:

- 1) Whether the accused No.1 and 2 have made out grounds to discharge them from this case?
- 2) What Order?

6. The above Points are answered as under:

Point No.1: In the **Negative**.

Point No.2: As per the final order
for the following:-

REASONS

7. Point No.1 :- The prosecution submitted chargesheet against the accused No.1 and 2 for the offence punishable U/sec. 380 of IPC. In this application, the accused No.1 and 2 are seeking to discharge them from this case. It is stated that, the complainant with a malafide intention foisted a false case against accused persons. It is stated that, the police have not collected any material evidence to prove the guilt of the accused persons beyond all reasonable doubt. It is stated that, there is delay in filing complaint and that there are inconsistent statement of the complainant. The prosecution on the other hand contends that there are sufficient materials to proceed against accused.

8. Further, Section 239 of CrPC provides as to when the accused should be discharged. It is apt to look at the said provision and it is as under;

239. When accused shall be discharged.—

If, upon considering the police report and the documents sent with it under Section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

Thus, as per the provision upon considering the police report and document sent with it U/Section 173 and making such examination of the accused and after hearing on both the sides if it is found that the charge against the accused is groundless the accused could be discharged by recording the reasons. This makes it clear that while framing the charge the entire materials produced has to be looked into and only thereafter, if the charges are found groundless the accused could be discharged.

9. Further, this case is registered based upon the complaint/First Information Statement of the complainant and as such the said material is a primary document while framing charge. On perusal of the complaint averments, in the complaint it is stated that, jewelries were stolen from the house of the complaint and that names of the accused persons is clearly specified in the complaint. Based on the complaint this case is filed against the accused persons. The prosecution herein states that, the jewelries are recovered based on the statement of the accused person and the prosecution also states that, the accused have admitted the commission of the offence.

10. Further, as per the accused No.1 and 2 there are no materials attracting the ingredients of Sec.380 of IPC. It is to be noted that, the accused No.1 and 2 are not denying about knowing the

complainant. Since, there is a specif allegation against the accused person, whether there is any involvement of the accused person for the offence alleged could be ascertained only after trial. While framing charge it is only to be looked if there are any materials to presume that the accused committed a tribal offence. In the case on hand the materials placed before this court leads to presume that, there are material to proceed against the accused persons. All the grounds raised by the accused No.1 and 2 in this application are factors to be looked and considered at trial. The charge sheet materials make out a case to try the accused for the offence punishable under Section 380 of IPC. Hence, the point is answered in **Negative**.

11. Point No.2: In view of the discussion and findings at above point, this Court proceeds to pass the following:-

:: ORDER ::

The application filed by the accused No.1 and 2 U/Sec 239 of Cr.P.C is hereby rejected.

(Dictated to the Stenographer Grade-III directly on computer and after corrections, signed and pronounced by me in open Court on this 11th day of May, 2026)

(PREETHY.K)
Addl.C.J & JMFC.,
Doddaballapura