

**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 14th May, 2026

CC No.2332/2025

Complainant:- The State
R/by Women P.S.
Doddaballapura

-V/s-

Accused :- Sri. Jayaram
Aged about 22 years
R/at: Vaddarahallipalya
Kasaba Hobli,
Doddaballapura Taluk
Bengaluru Rural District

ORDER ON IA FILED UNDER SEC.262 of BNSS

The accused has filed this application U/Sec. 262 of BNSS to discharge him from this case.

2. In the application it is stated that the accused is innocent of the offence alleged and the complainant police falsely implicated the accused at the instance of the complainant/informant. The accused is permanently residing in the address stated in the charge sheet and is a law-abiding citizen. There are no materials in respect of the allegation as alleged in the charge sheet and FIR as against the accused. The informant made allegation only with an intention to harass, humiliate

and implicate the accused in this false case. The allegations made against the accused are all concocted and the accused not committed the offence as alleged in the charge sheet. There are no ingredients for the offence punishable under Section 137(2) of BNS. The allegations made in the complaint are completely false. There are no statement of any witness nor any material object collected during the investigation which connects the accused/petitioner to the alleged disappearance of the complainant's daughter. Mere suspicion, surmises and conjunctures cannot form the basis for prosecution. The charge sheet and entire records of investigation do not disclose any material to show that the petitioner/accused had enticed, induced or taken away the complainant's daughter from the lawful guardianship of her parents. On the basis of the false allegation of the complainant, the police registered FIR and submitted charge sheet against the accused for the offence punishable under Section 137(2) of BNS. There is no prima facie case made out against the accused in the charge sheet and there are contradictory statements. There is an inordinate delay in lodging the complaint and there is no explanation regarding delay. The statement of the victim under Section 164 does not disclose the involvement of the accused. The accused not at all involved in any offence. The FIR was registered in the name of unknown persons and

the police manipulated and involved accused in this case. The accused have no knowledge regarding the said incident. The proceedings is an abused process of law. The alleged act of kidnapping cannot be sustained when the so-called Victim herself voluntarily joined the company of the accused and solemnized the marriage. In the light of the marriage between the petitioner and the complainant's daughter, the continuation of the proceedings would not only be purposeless and also detrimental to the marital life. The accused is in no way related to the alleged offences. There is no single document to show the involvement of accused in the alleged offence. Hence the application.

3. The learned APP filed objection and contends that the application is not maintainable either in law or facts. It is contended that the case is a warrant case and there are prima facie materials to proceed 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 has made out grounds to discharge him 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 :- In this case, the women police have submitted charge sheet against the accused for the offences punishable under Section 137(2) BNS 2023. In this application, the accused is seeking to discharge him from the alleged offence on the ground that there is no prima facie materials available and no case is made out against the accused to proceed in this case. The prosecution on the other hand contends that there are sufficient materials to proceed against accused.

8. Further, Section 262 of BNSS provides as to when the accused should be discharged. It is apt to look at the said provision.

262. When accused shall be discharged: (1) *The accused may prefer an application for discharge within a period of sixty days from the date of supply of copies of documents under Section 230.*

(2) *If, upon considering the police report and the documents sent with it under Section 193 and making such*

examination, if any, of the accused, either physically or through audio-video electronic means, 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 193 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, as per Section 137(2) BNS 2023, whoever kidnaps any person from India or from lawful guardianship is punishable with imprisonment of either description for a term which may extend to 7 years and also be liable to be fine. Hence the prosecution herein has the burden to establish that the accused kidnapped CW2 from the lawful guardianship and thereby committed an offence. On perusal of the entire materials, the complainant herein i.e. CW1 had filed a complaint stating that his daughter namely Ramya aged 17 years was at home and on 23.02.2025 around 11.00 p.m. after all the members

of the family slept around 05.00 a.m. in the morning when complainant woke up and saw that she had left the home and even after searching at friends and relatives her whereabouts were not recovered and as such filed a complaint requesting to find her. In this case, the law was set into motion based on the complaint filed by CW1, wherein there is a specific allegation that the daughter of the complainant aged 17 years namely Ramya was not found in their home. After investigation the police submitted a charge sheet stating that the accused herein forcefully took away the CW2 from the lawful guardianship of the said person. Accused herein states that, FIR was registered against unknown person and thereafter the accused is falsely implicated in this case. It is clear that while filing the complaint there are no any doubts raised as against the accused herein and the complaint was filed for missing of daughter of the complainant. Thereafter, as per the police after investigation it was found that CW2 was kidnapped by accused and that she was removed from the lawful guardianship. There are statements of the witnesses wherein it is stated that complainant and the accused had been to their house. While registering the FIR against the accused, admittedly there was no any doubt expressed by the complainant as against the accused. However as per the prosecution on investigation it was found that the

accused being well aware about the age of the CW2 had taken away from the lawful custody of the accused. In the grounds raised by the accused, one of the ground is that subsequent to the alleged incident, the accused and CW2 got married and as such continuing this proceedings would not arise. However, the commission of offence and the amount of punishment to be imposed on the said offence is to be considered at the time of incident. As on the date of the incident, complainant was minor and as per the charge sheet materials, the accused had taken away the CW2 from the lawful guardianship of her parents. Merely that, a marriage has taken place between the victim and the accused would not entitle the accused to discharge from this case. As per the prosecution as on the date of incident, the accused had taken away a minor girl from the custody of her guardian.

10. Further, while framing charge on considering the materials if the court is of the opinion that there is a ground for presuming that the accused committed an offence, the court has to frame charge. On considering the entire materials before this Court, as on the date of alleged incident, it clearly makes out that there is prima facie material against the accused for the offences alleged herein. It is pertinent to note that the accused is not pleading completely ignorant of the CW2. As per the admission of the accused himself, now the CW2 and

accused are married. The legality of the marriage of the accused with CW2 is not a question before this court. On considering all these aspects, it can be clearly made out that there is an offence as on the date of the alleged incident and the accused is not entitled to discharge from this case. 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
U/Sec 262 of BNSS 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 14th day of May, 2026)

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