

KACM010030342022



**IN THE COURT OF II ADDITIONAL DISTRICT AND SESSIONS
JUDGE AT CHIKKAMAGALURU**

Dated this the 10th day of February, 2026

:PRESENT:

SRI. PRAKASH.V., B.A.,L., LL.B.
C/c II Addl., District and Sessions Judge,
Chikkamagaluru.

S.C.No.184/2026

COMPLAINANT:

The State By
Hariharapura Police Station,
Chikkamagaluru District.

(Rep. by Public Prosecutor)

-V/s-

ACCUSED :

A2. Manjunatha @ Manju
(Abated)

A4. Sadhu S/o Subbanna,
Aged about 45 years,
R/at: Talluru, Udupi District.

A5. Smt.Devi W/o Venkatesha,
Aged about 40 years,
R/at: Movadi, Trasi Post,
Kundapura, Udupi.

A6. Smt.Geetha W/o Manjunatha,
Aged about 38 years,

R/at: Movadi, Trasi Post,
Kundapura, Udupi District.

(Rep.by Sri.S.R.L., Advocate)

ORDER

The accused No.2, 4 to 6 have filed this application u/s 227 of Cr.P.C., praying this Court to discharge them for the offences punishable under Section 306 R/w 34 of IPC.

2. In the application it is stated that, the complainant police have submitted two FIR's before the jurisdictional court, in the first FIR, they have mentioned the offence as 506 and 309 of IPC., and in the second FIR, the police have mentioned 306 of IPC and in the charge sheet also, section 306 R/w 34 of IPC has been mentioned. The complaint has been lodged by the complainant by making allegations against only accused No.1 and 3, but not against accused No.2, 4 to 6, hence the alleged offence not at all attracted on accused No.2, 4 to 6. It is further

submitted that these accused No.2, 4 to 6 are not at all connected with either the deceased nor the complainant and the police have not at all taken any action against the said accused persons, thus it shows that these accused persons have not at all participated in the said offence. Hence, prayed to discharge them for the alleged offences.

3. As against the above application, the Public Prosecutor has filed detailed objection and reiterated the facts of charge sheet and also contended that the IO has filed final report against the accused No.2, 4 to 6 along with other accused persons by collecting sufficient material evidence against them and the documents submitted along with final report discloses the commission of offence by the accused No.2, 4 to 6 along with other accused persons, as such, the prosecution requires full pledged trial of case to prove the case against them along with other accused persons. Further, there is a prima facie materials before this Court to frame

charges against the accused persons for the alleged offence and accordingly prayed for rejection of application.

4. The learned counsel for the accused No.2, 4 to 6 has relied upon the following judgments:

1. Appeal (Crl) 572 of 2002 (Sanju @ Sanjay Singh Sengar V/s State of Madhyapradesh) before the Hon'ble Supreme Court of India.

2. Criminal Appeal No.2086/2014 (State of Kerala and others V/s Unnikrishnan Nair and others) before the Hon'ble Supreme Court of India

3. Criminal Revision No.612/1993 (Vedaprakash Bhaiji V/s State of Madhya Pradesh) before the Hon'ble High Court of Madhyapradesh.

4. Criminal Revision Petition No.351/1993 (Manish Kumar Sharma V/s State of Rajasthan) before the Hon'ble High Court of Rajasthan.

5. Criminal Appeal No.276/2023 (Smt.Mangala Gowri V/s State of Karnataka) on the file of Hon'ble High Court of Karnataka at Bengaluru.

5. Heard the arguments of both sides and perused the records.
6. The following points arise for my consideration;

P O I N T S

1. Whether the application filed by the accused No.2, 4 to 6 deserves to be allowed?
 2. What order?
7. My answers to the above points are;
Point No.1:- In the Negative
Point No.2:- As per final order for the following;

R E A S O N S

8. **POINT No.1:** Admittedly, Sub-Inspector of Police, Hariharapura Police Station has submitted charge sheet against the accused persons for the offence punishable under Section under sections 306 r-w 34 of IPC. The brief facts of the prosecution case is that, the deceased Sudha who is the sister of CW.1 residing at Karabylu, Hariharapura Village, within the jurisdiction of Hariharapura Police Station, borrowed loan of

Rs.10,000/- on 11.12.2017 from Shri.Lakshmi Swasahaya Sangha and gave it to the accused No.1, later the deceased Sudha asked the accused No.1 to repay the amount as she was in need of money for medical treatment of her husband, but the accused No.1 informed that she has given the money to accused No.2 and 7 for the business, after they return the amount, she will give the same, otherwise call them and ask the money, the deceased telephoned the accused No.2 and 7 and asked to repay the money, but the said accused No.2 and 7 told her that if she gives more amount, they will repay the same altogether, in that matter, accused No.1 to 6 went to the house of deceased Sudha and asked her to give Rs.2,00,000/- cash and ornaments or else they will spoil her reputation by spreading that she has illicit relationship with the accused No.2. Further, accused No.4 had also abetted Sudha to commit suicide by pouring kerosene on her or jump into river. Without bearing the said words and on the guise that her

reputation has been spoiled by the accused persons, on 23.10.2019 at 7.30 a.m.,. Sudha poured kerosene on herself and set herself on fire, on 27.10.2019 at about 11.55 p.m., she succumbed to the injuries.

9. When the matter stood posted for hearing before charge, the accused No.2, 4 to 6 have come up with instant application praying this court to discharge them for the above said offences on the ground that, there is no materials to prove the ingredients of offence alleged and also that false case has been registered against them on the instigation of accused No.1 and 3.
10. Per contra, the learned Public Prosecutor would submit that the materials collected by the I.O is sufficient to frame the charge and the grounds urged by the accused in the application which touches the merits of the case cannot be considered. By relying upon the authorities of Hon'ble Supreme Court and Hon'ble High Courts, it is submitted that while framing the charge

against the accused, the material produced by the prosecution is to be considered and not the documents, if any, produced by the defence on behalf of the accused and argued that the prosecution requires full pledged trial of case in order to prove the offence committed by the accused No.2, 4 to 6.

11. With the rival contentions urged by both sides, it is just and necessary to go through the materials available on record. Admittedly, Section 227 of Cr.P.C., authorizes this Court to discharge the accused by recording the reasons upon consideration of the record of the case and documents submitted therewith is not sufficient to proceed against the accused.
12. The Hon'ble Supreme Court in **Dilawar Babu Kurane vs. State of Maharashtra**, reported in **AIR 2002 SC 564** has held that under Section 227 of Code of Criminal Procedure while considering the question of framing the charge, the Court has undoubted power to sift and weigh the evidence for a limited purpose of

finding out whether or not a prima facie case against the accused has been made out. Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial, by and large if two views are equally possible and the judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully justified to discharge the accused, and in exercising jurisdiction under Section 227 of Code of Criminal Procedure, the judge cannot act merely as a post office or the mouth piece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so-on. This however, does not mean that the judge should make a roving enquiry as if he was conducting a trial.

13. It is well settled that a test to determine prima facie case would depend upon the facts of each case and the Court must apply its judicious mind on the material placed on record with a view to find out if the facts emerging there from taken at their face value disclose the existence of all the ingredients constituting the alleged offence.

14. In the instant case, the allegations are that, the deceased Sudha lended Rs.10,000/- to the accused No.1 by borrowing the money from Shri.Lakshmi Swasahaya Sangha and when the deceased asked the accused No.1 to repay the money, she had told to ask the money from accused No.2 and 7, whom she had given the said amount, when deceased Sudha asked accused No.2 and 7 to repay the money, at that time, the accused No.1 to 6 have threatened her to lend Rs.2,00,000/- cash and ornaments or else they will spread about illicit relationship between her and accused No.2 and also abetted her to die by pouring

kerosene or to jump into the river, being desperate that her reputation has been spoiled by the accused persons, Sudha had committed suicide by pouring kerosene on herself and setting fire on herself.

15. The accused persons have charge sheeted for the offences punishable under Sections 306 r/w 34 of IPC. The contents of charge sheet would disclose that the prosecution has cited as many as 31 witnesses to prove the commission of alleged offence. CW1 is the complainant and said to be the brother of deceased Sudha, CW.2 and CW.3 are said to be the spot mahazar witnesses, CW.5 to CW.10 are said to be the witnesses to inquest mahazar, CW.11 to CW.16 are said to be the eye witnesses to the incident, CW.17 is said to be the circumstantial witness, CW.18 is said to be the one who had given documents about the loan borrowed by the deceased Sudha at Swasahaya Sangha, CW.19 is the P.D.O. said to have issued the assessment register of the alleged place of incident, CW.20 is the Doctor

who said to had examined the viscera of the deceased and given FSL report, CW.21 is the Scientific officer who after examination of the kerosene bottle, nighty worn by the deceased at the place of incident, said to had given FSL report, CW.22 is also the Scientific Officer who after examination of soil mixed with kerosene found at the place of incident, said to had issued FSL report, CW.23 is the Doctor who had issued post mortem report, CW.24 is the Engineer who had prepared sketch of the place of incident, CW.25 is the Tahasildar, Udupi who recorded the dying declaration of the deceased, CW.26 is the CPC., who is said to had submitted FIR to the Court, CW.27 is the WPC., who is said to had performed the escort duty of the dead body, CW.28 is the CPC who had given Viscera of the deceased Sudha to RFSL., officer and co-operated for investigation, CW.29 to CW.31 are the Investigating Officers.

16. On careful perusal of the contents of complaint, charge sheet, statement of witnesses and post mortem report establishes a prima facie case against accused No.4 to 6 to frame the charge for the offence alleged against them. Furthermore, the materials available on record clearly goes to show that, the accused No.4 to 6 said to have threatened the deceased to spread the rumours stating that the deceased is having illicit relationship with accused No.2. Hence, the principles laid down in the judgments relied upon by the learned counsel for the accused No.2, 4 to 6 cannot be made applicable at this stage of the proceedings so as to discharge them from the alleged offences. The accused No.2 is reported to be dead during pendency of hearing on instant application. There is absolutely no materials on record to discharge them for the alleged offences. Furthermore the contentions taken up by the accused in their application which touches the merits cannot be considered at this stage of

application for discharge. Accordingly, point No.1 is answered in the 'Negative'.

17. **Point No.2**:- In view of my findings on Point No.1, I proceed to pass the following;

ORDER

The Application filed by the accused No.2, 4 to 6 under Section 227 of Cr.P.C., is hereby rejected.

(Typed my dictation directly in computer by the Stenographer Grade-III, corrected, signed and then pronounced in open court on this the 10th day of February 2026).

Sd/-
(PRAKASH.V)
C/c II Addl., District and Sessions Judge,
Chikkamagaluru.