



IN THE COURT OF CIVIL JUDGE & JMFC., SRINGERI

PRESENT: Sri. Dasari Kranti Kiran B.Com., LL.B.,
Civil Judge & JMFC.,
Sringeri.

DATED THIS THE 12th DAY OF APRIL 2023

C.C.No:01/2022

BETWEEN : State by Singeri P.S.

...Respondent/Complainant

(By Learned APP)

AND : Shivashankar. B,
S/o.Late Bangaraswamy,
Aged about 51 years,
Occupation: Business,
R/o. Kanchinagara,
Honnavalli Post,
Sringeri Taluk,
Chikkamagalur District.

.....Applicant/Accused

(By Sri.K.R.S., Adv.,)



ORDERS ON APPLICATION UNDER SECTION 239 OF
Cr.P.C

The accused filed an application with prayer to discharge him from the above case on the strength of additional chargesheet submitted on 18.01.2023.

2. It is submitted in the application that the Thasildhar lodged a written compliant against the accused that the accused who was owner of 2 guntas of land in Sy.No.234/1, 2 guntas in Sy.No.234/2 and 3 guntas of land in Sy.No.234/3 has illegally leveled the land in Sy.No.215 adjacent to his land and thereafter the revenue officials and court officials visited the place and found the encroachment made by the accused and also found that the said Survey number which is 215 is situated at the down side of the court premises and also any changes in the said Sy.No.215 cause the damages to other properties and PWD Department to avoid the same might have to spend Rs.88 lakhs and hence action was taken and case was registered against the accused for the offences punishable U/sec.447 of IPC. Thereafter the accused obtained the bail and the case was posted for framing of charges. Meanwhile the application was filed by learned APP with a prayer to refer for further investigation and the said application came to be allowed and the investigation officers submitted additional



chargesheet same was accepted by this court on 18.01.2023.

3. It is submitted by the accused that on perusal of entire material available on record, it reveals that absolutely there is no case against the accused and police inspite of knowledge that there is prima-facie no case and without filing B-report has intentionally filed chargesheet against the accused. Further submitted that in the additional chargesheet submitted by the investigation officer the witnesses clearly given statement that the accused has not committed any offences in the above case.

4. Further, there is lack of details with respect to the vehicle used for the commission of offences or human sources. Further there is already construction of walls among water beds as per the instructions of the Hon'ble High Court of Karnataka. Hence prays to discharge the accused from the case.

5. Per contra, the learned APP has filed objection contending that the application is not maintainable either in law or on facts and the same is liable to be dismissed.

6. Further contended that the case was registered against the accused for he removing the mud in Sy.No.215 which belongs to Government land and which in turn would have caused damages to the court premises and



other hostile premises situated towards upper side of the Sy.No.215.

7. Further contended that the ingredients of section 192 do attract to the case on hand. Hence prays to dismiss the application.

8. Heard both the sides, perused the materials available on record, the points that would arise for consideration are as follows:

Point No.1: Whether the accused made out grounds to allow the application?

Point No.2: What order?

9. The answers to the above points are hereunder:

Point No.1: Negative.

Point No.2: As per final order.

10. **Point No.1:** On perusal the Sringeri Police have submitted the chargesheet against the accused for the offences punishable under section 447 of IPC. Initially the case was registered against the accused for the offences punishable under section 447, 434 of IPC, 3 and 4 of Karnataka Land Grabbing Prohibition Act and Section 192A, 192B of Karnataka Land Revenue Act and thereafter while submitting the chargesheet the offences punishable U/sec.3 and 4 of Karnataka Land Grabbing Prohibition Act



and sec. 192A and B of Karnataka Land Revenue Act and Section 434 of IPC was removed and the chargesheet was filed invoking the provision under section 447 of IPC only. Now the case stand posted for framing of charge. Mean while the present application came to be filed on the strength of Additional chargesheet. It is the specific case stand of the accused that he has not committed any offences as alleged by the police and submitted that the statement of witnesses in the additional chargesheet goes in his favour and the witness has not showed any ignorance with respect to the offences. But has clearly denied the same in their statements. Further submitted by the accused that no vehicle has been seized to established that he has leveled the mud in Sy.No.215 of Sringeri Taluk, which belongs to the Government.

11. On perusal though the witness in their statement denied that the accused has not committed any offences but the chargesheet speaks about the list of the witnesses who are the complainant who being the Thasildhar and other mahazar witness who are said to be witnesses for alleged place of incident and in this regard the investigation officer have investigated into the matter by citing 8 witnesses excluding the investigation officer. Hence, prima-face by looking into the earlier chargesheet it reveals that there is case against the accused.



12. Further without touching the merits of the case if the earlier chargesheet is perused though no vehicle has been seized, but there is a complainant witness who has to be examined with respect to the commission of offences said to have been committed by the accused coupled with other witnesses. Hence this court opined that there is sufficient material available on record to put the accused to face the trial. Hence this court answers point No.1 in the negative.

13. **Point No.2:** In view of above discussion on point No.1 this court proceed to pass the following;

ORDER

The application filed U/sec.239 of

Cr.P.C. is hereby dismissed.

(Dictated to the Stenographer, typed by him in computer and corrected by me, print out taken by him and then pronounced by me in the open court on this 12th day of April, 2023.)

Sd/-

(Dasari Kranti Kiran)

Civil judge & JMFC.,
Sringeri.

YM/-***