

IN THE COURT OF THE SENIOR CIVIL JUDGE
AND J.M.F.C., TARIKERE

PRESENT : SRI MUZAFFAR A. MANJARI, *B.A, LL.B.*
Senior Civil Judge & J.M.F.C.,
Tarikere.

(Name of the Presiding Judge)

DATED : THE 7th DAY OF AUGUST 2026

CC No.437/2021

ORDER ON APPLICATION FILED UNDER SECTION
323 OF CR.P.C.

The prosecution has filed this application under Section 323 of Cr.P.C. seeking committal of this case to the Hon'ble Sessions Court, Chikkamagaluru after taking cognizance of the offence punishable under Section 304(ii) of I.P.C. in this case.

2. In the application, the learned APP has claimed that this case is registered against the accused for the offence punishable under Sections 287 and 304-A of I.P.C. on the basis of charge sheet filed by Tarikere Police. However, perusal of the charge sheet prima-facie shows that the offence punishable under Section 304(ii) of I.P.C. is attracted to this case as there are allegations to that effect in the charge sheet but though over sight, the investigating officer has not mentioned the said offence in the charge sheet but mentioned the offence punishable under Section 304-A of I.P.C. Therefore, for all these reasons, the prosecution has prayed to allow this application.

3. The accused has filed his objections to the application thereby denying the averments of the application and contending that the application is not maintainable either in law or on facts. The claim of the prosecution that the offence under Section 304(2) of I.P.C. and the offence under Section 304-A of I.P.C. is not attracted to this case does not hold water as the police have submitted charge sheet for the offence punishable under Section 304-A of I.P.C. Hence, for this reason, the accused has prayed to dismiss the application with costs.

4. I have heard arguments of the learned APP and counsel for the accused and perused record of the case.

5. The points that arise for my consideration are:

1. Whether prosecution has made out ground for committal of this case to the Hon'ble Court of Sessions?
2. What order?

6. My findings to the above points are as under :

POINT NO.1: In the **NEGATIVE**

POINT NO.2: As per final order,
for the following:

REASONS

7. **POINT NO.1** : I have gone through the record of the case carefully and I have also heard arguments of both the counsel at length. The record discloses that Tarikere Police has submitted charge sheet in this case alleging offence punishable under Sections

287 and 304-A of I.P.C. and accordingly, this court has taken cognizance for the said offence, registered this case and issued process against the accused. Similarly, after appearance of the accused, this court has framed necessary charges against the accused for the above said offence and the trial of the case is under progress. However, now the prosecution has come up with this application seeking committal of this case to the Hon'ble Court of Sessions on the ground that the offence punishable under Section 304(2) of I.P.C. is attracted in this case.

8. The prosecution has claimed that there are averments in the charge sheet attracting the offence punishable under Section 304(2) of I.P.C. but through over sight, the investigating officer has not mentioned the said offence in the charge sheet. However, perusal of the entire charge sheet prima-facie shows that merely the ingredients of the offence punishable under Section 304-A of I.P.C. are made out therein and there is no material to attract the offence punishable under Section 304(2) of I.P.C. as there is no allegation that the accused acted with intention in the alleged incident though there is allegation that he acted with negligence. Further though the prosecution has also got examined a witness in this case as P.W.1, he has also not stated anything in the evidence attract the offence punishable under Section 304(2) of I.P.C. and hence, the prosecution has not made out grounds to allow the application.

9. Therefore, for all the above reasons, I hold that the prosecution has not made out any grounds for committal of this

case to the Hon'ble Court of Sessions and accordingly, I answer point No.1 in the **NEGATIVE**.

10. **POINT NO.2:** For foregoing reasons, I proceed to pass the following:

O R D E R

Application filed by prosecution under
Section 323 of Cr.P.C. is hereby **DISMISSED**.

Reissue W/S to C.W.1, 8 and 10 to 12.

Sd/-
**SENIOR CIVIL JUDGE & JMFC.,
TARIKERE**