

KADW010028522025



**IN THE COURT OF THE IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, AT: DHARWAD.**

DATED THIS THE 21st DAY OF MAY, 2026.

Present:

SMT. POORNIMA N. PAI

B.Com.,LL.M.

**IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DHARWAD.**

SESSIONS CASE No.60/2025.

COMPLAINANT:

The State of Karnataka
Through Garag Police Station,
Rep. by Public Prosecutor,
Dharwad.

(By Public Prosecutor, Dharwad)

V/S

APPLICANTS:

**(ACCUSED No.2
to 10)**

2. Annappa Shiddappa Udoji,
Age: 39 years, Occ: Farmer,
R/o. At Post: Hosatti, Taluk:
Dharwad.
3. Prakash Shiddappa Udoji,
Age: 35 years, Occ: Farmer,
R/o. At Post: Hosatti, Taluk:
Dharwad.

4. Ningappa Shiddappa Udoji,
Age: 50 years, Occ: Farmer,
R/o. At Post: Hosatti, Taluk:
Dharwad.
5. Yallappa S/o. Shivappa Udoji,
Age: 26 years, Occ: Farmer,
R/o. At Post: Hosatti, Taluk:
Dharwad.
6. Sagar S/o. Manjunath Udoji,
Age: 20 years, Occ: Farmer,
R/o. At Post: Hosatti, Taluk:
Dharwad.
7. Ningappa S/o. Yallappa Udoji,
Age: 62 years, Occ: Farmer,
R/o. At Post: Hosatti, Taluk:
Dharwad.
8. Irappa S/o. Yallappa Udoji,
Age: 60 years, Occ: Farmer,
R/o. At Post: Hosatti, Taluk:
Dharwad.
9. Bayavva W/o. Ningappa Udoji,
Age: 54 years, Occ: Housewife,
R/o. At Post: Hosatti, Taluk:
Dharwad.
10. Sujata W/o. Irappa Udoji,
Age: 41 years, Occ: Housewife,
R/o. At Post: Hosatti, Taluk:
Dharwad.

(By Shri Praveen Hucharaddi,
Advocate)

ORDER ON APPLICATION
FILED BY THE ACCUSED Nos.2 TO 10
UNDER SECTION 250 OF BNSS

The present application is filed by the accused Nos.2 to 10 under Section 250 of BNSS seeking their discharge in the present case (Crime No.60/2025 of Garag Police Station) filed for the offences punishable under Section 189(2), 191(2), 191(3), 103(1), 118(2), 352, 351(2), 351(3), 62 R/w Section 190 of BNS.

2. It is contended in the application that, on the basis of complaint given by one Shivappa Udoji, Garag Police have registered a case against the present applicants and family members under Section 189(2), 191(2), 191(3), 103(1), 118(2), 352, 351(2), 351(3), 62 R/w Section 190 of BNS. It is alleged in the complaint that there was dispute with regard to the property between the complainant and their relatives namely Siddappa Udoji and in this regard a decree was

passed by the Civil Court in favour of the complainant. This being the state of affairs, on 07.04.2025, the son of Siddappa namely Manjunath Udoji without informing the complainant had unloaded the sand in the property of the complainant. The complainant and his father and relatives have enquired about the unloading of sand to Manjunath. For this, the accused No.1 Manjunath argued that the said property belongs to him and he will unload the sand in that property and further scolded the complainant and his family members by name Annappa S. Udoji, Prakash S. Udoji, Ningappa S. Udoji, Yallappa S. Udoji, Sagar M. Udoji, Ningappa Y. Udoji, Irappa Y. Udoji, Bayavva W/o Ningappa Udoji, Sujata W/o. Irappa Udoji colluding with each other have asserted that the said property belongs to them and gave life threat to the complainant and his family members. It is further alleged that, at that point of time, accused No.1- Manjunath has picked one Iron rod and has smashed

on the head of complainant's father and assaulted on left eyes and nose of the complainant's father. The complainant along with people gathered in the spot have pacified the quarrel and accused Manjunath has further given threat that, he will take away the life if they come to the said property and threatened them to return. Among the accused persons, accused No.2-Annappa and accused No.6-Sagar were holding a stick in their hand and Praksh was holding iron rod (Salike). In the said incident, the father of the complainant has suffered severe injury on left part of the head, nose, left eye and active blood flow from the nose and swelling on the left eye. Thereafter the complainant took his father to the Government hospital, Dharwad and then to KIMS hospital Hubballi for higher treatment. The alleged incident has taken place at about 10-30 A.M. With these allegations the complainant has lodged the complaint against the petitioner/accused No.2 and other accused persons.

3. It is submitted that, after registering the complaint, the accused Nos.1 to 8 were arrested by the I.O. and they were produced before the Magistrate and sent to J.C. After completion of investigation, the Police have filed the Charge sheet against the accused Nos.1 to 10 for the offences punishable under Section 189(2), 191(2), 191(3), 103(1), 118(2), 352, 351(2), 351(3), 62 R/w Section 90 of BNS. Though the accused Nos.2 to 10 have not committed any of the offence as alleged in the Charge sheet, these accused left with no other alternative and efficacious remedy constrained to file this petition on the following grounds:

GROUND

That, the accused Nos.2 to 10 are innocent and have not committed any of the offences as alleged in the complaint. The Police officials colluding with the complainant and other politically motivated persons

against the accused Nos.2 to 10 have created a false story and they have been involved in this case with ulterior motive. Looking to the entire Charge sheet, there is no such act is forthcoming to say that these accused Nos.2 to 10 have assaulted any of the persons of the complainant or his family members. There is a civil dispute between the family of the complainant and these accused persons. The complainant with the grudge and to harass the accused Nos.2 to 10 has falsely involved them in the alleged crime. That, the accused No.6-Sagar is a student and at the time of alleged incident he was not at all present said spot as he was in Internet Centre and he was submitting his application for Army Recruitment and he has also produced all those documents before the concerned I.O., but the I.O. has not at all verified those documents. That, the accused Nos.9 and 10 are women and they are doing their household work. Thought they are not involved in the

said crime and even the Charge sheet materials silent about their alleged involvement, they have been involved in this case. In the entire Charge sheet, there is no single material to show that they have assaulted any of the persons or their presence and any overt act. Though the I.O. know about the accused Nos.9 and 10 not at all involved in the case, colluding with the complainant and other politically motivated persons has falsely involved these accused Nos.9 and 10 and other family members in the case. Looking to the entire Charge sheet materials and statements of the Charge sheet witnesses, all the alleged incident is happened in an anger of accused No.1 and he only assaulted the deceased and no other accused persons have assaulted the deceased or any other persons. The alleged incident happened in the moment of heat talk between accused No.1 and deceased and at that time none of the family members were present. It clearly goes to show that there is no preparation and

motive to commit the alleged offence. Since these accused persons have not committed any of the alleged crimes continuation of the proceedings against them without any proof or evidence will be abuse of process of law and same will cause great loss, hardship and injustice to the accused Nos.2 to 10. That, these accused persons have also lodged a complaint against the family members of the complainant for assaulting them and same is registered in Crime No.61/2025 of Garag Police Station. Hence, to safeguard the family members of the complainant herein the Police and the complainant have falsely involved these accused Nos.2 to 10 in the alleged crime. The case of the prosecution is a clear case of motivated by vengeance to counterblast the acts of the family members of the complainant and to harass the accused Nos.2 to 10 and their family members. Looking to the Charge sheet, no prima facie case is made out against the accused Nos.2 to

10 and there are no sufficient grounds made out by the prosecution to proceed the trial against the accused Nos.2 to 10. Charge sheet and accompanying material does not disclose the commission of any of offence by these accused Nos.2 to 10. The material relied upon by the prosecution creates only a mere suspicion and not the 'grave suspicion' required in law to frame charges. The prosecution story is inherently improbable and does not inspire confidence. The Hon'ble Supreme Court has consistently held that where the prosecution material does not disclose a prima facie case, the accused must be discharged to prevent abuse of process and unnecessary trial. On these grounds, the accused Nos.2 to 10 pray to discharge them in Garag Police Station Crime No.60/2025 for the offences punishable under Section 189(2), 191(2), 191(3), 103(1), 118(2), 352, 351(2), 351(3), 62 R/w Section 190 of BNS.

4. The copy of above application was served to the learned Public Prosecutor who filed objections to discharge application stating that, since the accused Nos.2 to 10 did not file the present application within the prescribed period, same is not maintainable. There are sufficient materials and evidence to show that these accused have committed the offence and same are sufficient to frame charge against these accused persons. Further, the learned Public Prosecutor has narrated the facts of the prosecution case stating that, on 07.04.2025 at about 10.30 A.M., when the accused No.1 Manjunath S. Udoji was unloading the sand in the disputed open land, the father of the complainant and relatives have enquired about the unloading of the sand to Manjunath, at that point of time, CW.1, 10, 12, 13 and 14 came to the land and for that said Manjunath has argued that, the said property belongs to him and he will unload the sand in that property and further scolded the complainant and his family

members have asserted that the said property belongs to them and gave life threat to the complainant and his family members. Further it is submitted that, at that point of time, accused No.1-Manjunath has picked one Iron rod and with an intention to commit murder has smashed on the head of complainant's father. The complainant along with people gathered in the spot have pacified the quarrel and accused Manjunath has further given threat that, he will take away the life if they come to the said property and threatened them to return. Thereafter the injured Joteppa Udoji was taken to District hospital, Dharwad, KIMS hospital Hubballi, SDM hospital, Dharwad for treatment. Further on 08.04.2025, again he was taken to District hospital, Dharwad for treatment, wherein he died on 08.04.2025 at 19-45 hours.

5. It is submitted by the learned Public Prosecutor that, there are no reasonable grounds to allow the application. Regarding this incident, the present

accused have also lodged a complaint and after completion of investigation the I.O. has submitted the Charge sheet and said case is also pending adjudication in S.C.No.77/2025. Hence, the application filed stating that there are no material to frame charge against these accused, is not maintainable. On these grounds, the learned Public Prosecutor prays to reject the above application.

6. Heard the arguments of learned counsel for the accused and the learned Public Prosecutor on the present application. Perused the records.

7. The points arise for my consideration are as under:

1. Whether the accused Nos.2 to 10 are entitled to be discharged in this case for the offences punishable under Section 189(2), 191(2), 191(3), 103(1), 118(2), 352, 351(2), 351(3), 62 R/w Section 90 of BNS on the basis of available materials in the Charge sheet?
2. What order

8. My findings to the above points are as follows:

Point No.1 : In the Negative.

**Point No.2 : As per final order
for following;**

REASONS

9. **Point No.1:** Section 250 of BNS, earlier
Section 227 of Cr.P.C. speaks as under:

If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.

At this stage, while deciding application for discharge, the Court has to look into the contents of Charge sheet filed by the Investigating Officer. If on the basis of material on record Court prima facie forms opinion that accused may have committed the offence, it can frame

Charge though for conviction, guilt of accused beyond reasonable doubt is required to be proved. If two views are equally possible and Judge is satisfied on the basis of evidence produced before him that there is some suspicion but not grave suspicion against accused, he will be justified in discharging the accused though no Rule of universal application as to how prima facie case is to be determined can be laid down which would depend upon facts of each case as held in decision relied by the learned Public Prosecutor reported in **2018(3) Supreme Court Cases (Crl.) 710**.

10. At the stage of discharge, the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging there from taken at their face value discloses the existence of all the ingredients constituting alleged offence. The Court is not expected to go deep into the matter and hold that materials would not warrants conviction. At the

stage of considering the application for discharge, the Court has to proceed with the presumption that the material brought on record by the Prosecution are true and evaluate such material with a view to find out whether the facts emerging there from taken at their face value discloses existence of ingredient of the offence. Hence, on these observations, if we go through the pleadings of the Advocate for the accused and objections of the prosecution, the facts emerges as under.

11. It is argued by Advocate for the accused Nos.2 to 10, who is pleading for discharge of said accused persons, that, there is no nexus to connect these accused to the crime. It is submitted that, there are no chances of convicting the accused in view of false story. That, there is no iota of evidence on record against these accused Nos.2 to 10 to suggest their involvement in the alleged offence. The statement of

alleged witnesses and the complainant does not even whisper about their presence in the alleged crime. The prosecution has not thrown any suspicion against the present accused Nos.2 to 10 and there are no chances ultimately culminating into conviction of the accused. There is no prima facie case made out against the accused. The materials placed before the Court does not disclose the offences alleged to be committed by the accused Nos.2 to 10. Hence, he has argued that even though accused Nos.2 to 10 have not at all committed the said offences, the prosecution has filed a false Charge sheet and prays to discharge the accused Nos.2 to 10 for the aforesaid offences.

12. On the other hand, learned Public Prosecutor argued that, the Investigating Officer has filed Charge sheet against the accused for the offences punishable under Section 189(2), 191(2), 191(3), 103(1), 118(2), 352, 351(2), 351(3), 62 R/w Section 90 of BNS.

Further, the I.O. has collected reasonable, legal and circumstantial evidence against the accused persons regarding murder of the deceased and submitted the same along with Charge sheet and same shows the involvement of these accused persons in committing the murder of the deceased. Hence, prays to dismiss the application on the ground of delay in filing the said application also.

13. Upon going through the prosecution papers, there is a counter case filed by these accused persons against the deceased and the complainant, wherein the presence of these accused persons is mentioned by the complainant and it is also shown that they have sustained injuries in the said incident. When such is the case, these accused persons cannot deny their presence at the stage of discharge. The I.O. has recorded the statement of the complainant and the witnesses and based on the same the I.O. has

collected evidence and same is sufficient to frame charge against the accused Nos.1 to 10. The accused Nos.2 to 10 have committed serious offence of murder and even though it is alleged in the application that the assault was made by only accused No.1, in a heinous case, Section 149 of the Indian Penal Code (IPC) / Section 190 of BNS establishes **vicarious and joint liability** within an unlawful assembly. It states that if any member of a group of five or more people commits an offense in pursuit of the group's "common object," every single member present at the time is held equally guilty. Hence, this has to be proved by the prosecution during the trial and now it is a premature stage to decide whether accused Nos.2 to 10 were present in the spot or not. The present application is filed only to drag on the trial.

14. At the stage of Section 227 and 228 of Cr.P.C./ Section 250 of BNS, a time limit is fixed now that the

accused may prefer an application for discharge within a period of 60 days from the date of commitment of the case under Section 232. Hence, in the present case, the case is committed to the Sessions Court on 12.09.2025. The present application is filed on 19.01.2026 i.e. 127 days after committal (04 months 07 days). Hence, on this ground alone, the application deserves to be dismissed.

15. A citation relied upon by this Court in support of reasoning in the case of **State of Tamilnadu by Police vigilance and Anti Corruption Vs. Suresh Rajan and Others** reported in **2014(3) SCC (Cri) 529**, wherein it is held that “it is trite that at the stage of consideration of an application for discharge, the Court has to proceed with an assumption that material brought on record by the prosecution are true and evaluate the materials and documents with a view to find out whether the facts emerging there from taken at

their face value disclose the existence of all the ingredients constituting alleged offence. Court is not expected to go deep into the matter and hold that the material would not warrant a conviction. The law does not permit a mini trial.”

16. Hence, at this stage, upon going through the material on record, Prima facie prosecution materials show sufficient grounds for framing Charge against the accused Nos.1 to 10 under Section 228 of Cr.P.C. / Section 251 of BNSS. No reasonable grounds made out for discharging the accused under Section 227 of Cr.P.C. / Section 250 of BNSS. Accordingly, **point No.1** is answered **in the Negative**.

17. **Point No.2:** In view of above discussion. I proceed to pass following,

ORDER

Application filed by the accused Nos.2
to 10 under Section 250 of BNSS is
hereby rejected.

(Dictated to the stenographer directly on computer, typed by
him, corrected, signed and then pronounced by me in the open court
on this **21st day of May, 2026.**)

(Smt. POORNIMA N. PAI)
IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
DHARWAD.