

**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL
JUDGE AND JMFC, HUBBALLI**

Present:

Sri. Yamanappa Karehanumanthappa,
Prl. Senior Civil Judge & JMFC, Hubballi.

C.C. No.1634/2022

Dated this the 31st day of May- 2025

Complainant : State.

.Vs.

Accused : Rajesh Munaratnamma.

ORDER ON APPLICATION U/S.319 OF Cr.P.C.

The learned APP has filed an application U/s.319 of Cr.P.C. summoning the proposed accused who is not chargesheeted and his name is not found in FIR on the ground that the CW.17 who was proposed accused was involved in this case and destroyed the evidence with the accused as on the date of accident. Further he has stated that though the proposed accused was with the accused at the time of incident, he has not lodged complaint before police and not supported to the case of prosecution and the proposed accused is helped to the accused with an intention to destroy the evidence. Therefore, the court may summon the proposed accused in the interest of justice and equity.

2. The notice has been sent to the proposed accused. The proposed accused is present before the court and filed objection contending that the prosecution should

have proved the accident with the knowledge of the driver and CW.17. The mere statement of witness CW.17 cannot be said party to the offence. There is no sufficient material to arrest the accused before this court and police have not chargesheeted the accused. Therefore, application may be dismissed.

3. Heard and perused the records..The following points arise for my consideration:

1. Whether the prosecution has made out sufficient grounds to summon the proposed accused?

2. What order?

4. My answer to the above points are as under.

Point No.1 : In the Negative.

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

REASONS

5. **Point No.1:** The Investigating Officer has filed chargsheet against the accused for the offence punishable U/s.279, 304(A) of IPC and 134 and 187 of M.V. Act. After filing the chargesheet this court took cognizance for the alleged offences and registered criminal case against the accused, issued summons to the accused, the accused appeared before the court, released him on bail. The contents of the acquisition readover to the accused in Kannada language. The accused pleaded not guilty and claimed to be tried. In order to prove the case, the

prosecution examined PW.1 to 12. On perusal of evidence PW.1 to 12, nobody has stated against proposed accused with regard to destroy of the evidence by the proposed accused with the accused as on the date of accident. In this regard I have relied the judgment of Hon'ble Supreme Court reported in **AIR 2025 SC 721, Omi @ Omkar Rathore and another -vs- State of Madhya Pradesh and another**, wherein the Hon'ble Supreme Court in para No.19 and 20 held as under:

“19. It is relevant to note at this stage that the closure report filed by the police in the case on hand is yet to be looked into by the court concerned. The same has not been accepted till this date. However, the closure report now pales into insignificance in view of the order passed by the trial court under Section 319 of the Cr.P.C. summoning the petitioners herein to force the trial. We may only add that it would have been in fitness of things if the court concerned would have looked into the closure report at the earliest and passed an appropriate order one way or the other after hearing the defacto-complainant. The court should not keep the closure report pending for consideration for a long time. Such report should be looked into promptly.

20. In the overall view of the matter, we are convinced that the High Court committed no error

not to speak of any error of law in passing the impugned order.”

6. In the present case also the proposed accused name is not found in the FIR or chargesheet. Moreover there is no incriminating evidence against proposed accused. Therefore, there is no sufficient material against the proposed accused. The grounds are not sufficient. Hence, I answer point No.1 in the **Negative**.

7. **Point No.2**: In view of my answer to point No.1 as stated above, I proceed to pass the following;

ORDER

The application filed U/s.319 of Cr.P.C. by the APP is hereby rejected.

(Dictated to the Stenographer directly on computer, computerized by her, script corrected directly on computer and then pronounced by me in the Open Court on this the **31st day of May- 2025**)

(Yamanappa Karehanumanthappa)
Prl. Senior Civil Judge, Hubballi.