

KAHS010032982025



**BEFORE THE III ADDL. DISTRICT & SESSIONS COURT AT
HASSAN**

**PRESENT: Sri. Doddegowda K., B.A. LL.B.,
III Additional District and Sessions
Judge, Hassan.**

Dated this 28th Day of July, 2026

SC/90/2025

Complainant : Gorur Police Station

(By Public Prosecutor)

V/s

Accused : Pradeep Kumar and others

(By Sri. B.C.R. Advocate)

**ORDER ON THE APPLICATION FILED BY ACCUSED NO.7
UNDER SEC.227 OF Cr.P.C.,**

Accused No.7 has filed this application under Section 227 of the Code of Criminal Procedure seeking his discharge from the case.

2. The case of the prosecution, in brief, is that on 20.12.2023, CW-1 and CW-2 were proceeding from Gorur towards Kattaya in the car bearing registration No.KA-46-M-5542. Near Indian Oil Petrol Bunk, Aralikatte, Gorur, Accused Nos.1, 3, 4, 5 and 6 came in a Tata Punch car bearing registration No.KA-13-Z-7150 and blocked the car of CW-1 from the front. Accused No.2 allegedly came in a Maruti Alto car bearing registration No.KA-01-MA-8053 and blocked the car from behind. It is alleged that Accused Nos.1, 3, 4, 5 and 6 got down from their car and attempted to pull CW-1 out of his car with an intention to kill him. When CW-1 attempted to escape by moving his car towards the right side of the road, Accused No.3 allegedly struck him with an iron pipe. The blow fell on the left door of the car and caused damage of about ₹5,000. CW-1 escaped from the place without sustaining injury.

3. The further case of the prosecution is that Accused No.7 was working as an Assistant Executive Engineer. CW-1 had sought information under the Right to Information Act

regarding SCP/TSP works and had also lodged a complaint before the Karnataka Lokayukta concerning the works of the department. On account of the same, Accused No.7 allegedly developed ill will against CW-1 and instigated Accused Nos.1 and 2 to eliminate him.

4. Accused Nos.1 to 6 have been charge-sheeted for the offences punishable under Sections 143, 148, 120-B, 341, 307 and 427 read with Section 149 of IPC. Accused No.7 has been sent up for trial by invoking Section 114 of IPC.

Contentions of Accused No.7

5. The learned counsel for Accused No.7 argued that the entire complaint has been lodged with the sole object of troubling and harassing Accused No.7. The complainant had not sought any information under the RTI Act in the individual name or designation of Accused No.7. It is further argued that the complaint lodged before the Lokayukta was against 13 persons and was not exclusively against Accused No.7. Therefore, the said complaint cannot constitute a motive for commission of the alleged offences.

6. It is also argued that the IMV report shows only a small mark on the left door of the car. Accused No.7 had earlier lodged a complaint against the present complainant before Sakleshpur Police Station and, therefore, the present case is a counterblast to the said complaint. The learned counsel further argued that Accused No.7 was not present at the place of occurrence. His physical presence being an essential ingredient of Section 114 of IPC, no offence under the said provision is made out against him. The voluntary statement of Accused No.1 recorded by the police cannot be treated as substantive evidence against Accused No.7. Accordingly, the learned counsel prayed to allow the application and discharge Accused No.7.

Contentions of the prosecution:

7. The learned Public Prosecutor vehemently opposed the application. It is argued that Accused No.1 is the brother of Accused No.7, Accused No.2 was the driver of Accused No.7 and Accused No.3 was known to Accused No.1. It is further argued that the complaint before the Lokayukta and

the information sought under the RTI Act regarding the works connected with Accused No.7 furnished a clear motive for the offence.

8. The learned Public Prosecutor relied upon the voluntary statement of Accused No.1 dated 22.12.2023. In the said statement, Accused No.1 has allegedly stated that Accused No.7 was annoyed by the conduct of the complainant and had asked him to teach the complainant a lesson. Accused No.7 had allegedly informed Accused No.1 that the complainant would be coming to the office at Gorur to obtain RTI documents. Accused No.1, Accused No.2 and the other accused thereafter assembled near the open-air theatre in the HRP Quarters complex and planned the attack.

9. It is further stated in the said statement that Accused No.7 had instructed Accused No.1 and his driver to intercept the complainant and attack him. After the complainant escaped from the place, Accused No.1 allegedly informed Accused No.7 about the incident, whereupon Accused No.7 told him to return and to kill the complainant whenever

another opportunity arose. It is argued that the above material, coupled with the motive, relationship between the accused and the manner in which the attack was carried out, raises grave suspicion against Accused No.7. The truthfulness and evidentiary value of such material can be decided only after a full-fledged trial. Accordingly, the learned Public Prosecutor prayed to reject the application.

10. Heard the learned counsel for Accused No.7 and the learned Public Prosecutor. Perused the application, objections, charge-sheet and the documents produced along with it.

11. The counsel for the accused No.7 has relied upon the following rulings:

1. AIR 1979 SC 366 (Union of India V/s Prafulla Kumar Samal and another.

2. Lalan Prasad V/s State of Jharkhand dated 26-11-2001.

12. The point that arise for consideration is:

“Whether the material placed by the prosecution raises grave suspicion against Accused No.7 and discloses sufficient ground to proceed against him”?

13. The court answers the above point **in the Affirmative**, for the following:

:: REASONS ::

14. Section 227 of Cr.P.C. provides for discharge of an accused when, upon consideration of the record of the case and the documents submitted along with it, the Court finds that there is no sufficient ground for proceeding against him.

15. At this stage, the Court is not required to determine whether the prosecution will ultimately succeed in proving the guilt of the accused beyond reasonable doubt. The Court has to find out whether the material, taken at its face value, raises a grave or strong suspicion that the accused might have committed the offence. **In State of Rajasthan v. Ashok Kumar Kashyap, (2021) 11 SCC 191 : 2021 SCC OnLine**

SC 314, the Hon'ble Supreme Court held that at the stage of considering discharge, the Court has only to sift the prosecution material to determine whether there is sufficient ground to proceed. The Court cannot enter into a detailed weighing of the evidence or conduct a mini-trial. The defence of the accused on merits is also not to be examined at that stage.

16. Keeping the above principle in view, the contentions regarding the alleged conduct and antecedents of the complainant, the earlier complaint lodged by Accused No.7 before Sakleshpur Police Station and the alleged falsity of the Lokayukta complaint cannot be finally decided while considering an application under Section 227 of Cr.P.C. These matters require evidence and are to be examined during trial.

17. The contention that the complainant had not sought information by specifically mentioning the individual name or designation of Accused No.7 is also not sufficient to discharge him. The prosecution case is that the information sought

under the RTI Act and the complaint before the Lokayukta related to the works dealt with by Accused No.7 and other officials. Whether the said proceedings were actually directed against Accused No.7 and whether they furnished the motive for the offence are matters requiring evidence.

18. At this stage, the Court has to proceed on the basis of the prosecution material. If the allegations are accepted at their face value, the RTI applications and the Lokayukta complaint provide a prima facie motive for Accused No.7 to develop ill will against the complainant. The IMV report showing only a small mark on the car door does not demolish the prosecution case at the stage of framing charge. The prosecution alleges that the complainant's car was blocked from both sides, the accused attempted to pull him out of the car and an iron rod was used to strike him when he attempted to escape. The fact that the complainant escaped without injury or that the blow fell on the car door is not by itself sufficient to hold that the prosecution allegations are false. The intention and knowledge of the accused have to be

gathered from the entire incident and the surrounding circumstances during trial.

19. The prosecution has also placed reliance upon the voluntary statement of Accused No.1 dated 22.12.2023. The Court is conscious that the said statement cannot, by itself, be treated as substantive evidence against Accused No.7 or used as the sole basis for recording his conviction. However, at this stage, the Court is not deciding its final admissibility or evidentiary value. The prosecution case is not based merely upon an isolated reference to Accused No.7. The statement contains a detailed account regarding the alleged motive, the prior conversation, the information given about the movement of the complainant, the role assigned to Accused Nos.1 and 2 and the communication made after the complainant escaped. The statement is required to be considered along with the other circumstances collected during investigation.

20. Accused No.1 is admittedly the brother of Accused No.7. Accused No.2 is alleged to have been the driver of

Accused No.7. The prosecution has further alleged that Accused No.7 had information about the complainant's proposed visit to the office for obtaining RTI documents and that the said information was communicated to Accused Nos.1 and 2. Shortly thereafter, the complainant was allegedly followed and intercepted by the accused in two different cars. It is true that relationship between the accused, by itself, cannot establish the commission of an offence. However, the relationship, the alleged motive, the employment of Accused No.2 as the driver of Accused No.7, the alleged prior information about the movement of the complainant and the coordinated manner in which the vehicles were used cannot be examined separately. When read together, these circumstances raise a strong suspicion regarding the involvement of Accused No.7.

21. Section 120-A of IPC provides that when two or more persons agree to do, or cause to be done, an illegal act, such agreement amounts to criminal conspiracy. Where the agreement is to commit an offence, the agreement itself

constitutes the offence and it is not necessary that a separate overt act should be established. **In Kehar Singh v. State (Delhi Administration), (1988) 3 SCC 609 : 1988 SCC (Cri) 711 : AIR 1988 SC 1883**, the Hon'ble Supreme Court held that the essential ingredient of criminal conspiracy is the agreement between two or more persons to commit an illegal act. Such conspiracies are generally planned in secrecy and may be established either by direct evidence or by the acts and surrounding circumstances of the parties.

22. Therefore, the physical presence of Accused No.7 at the place where the complainant's car was intercepted is not an essential requirement for an offence under Section 120-B of IPC. If the prosecution establishes that Accused No.7 was a party to the prior agreement or that he instigated the other accused, his absence from the place of occurrence by itself would not absolve him. Section 114 of IPC applies when a person, who would otherwise be liable as an abettor, is present when the act or offence abetted is committed. The mere fact that the investigating officer has mentioned Section

114 of IPC in the charge-sheet does not by itself entitle Accused No.7 to be discharged from the entire case. The Court is not bound by the particular section of law mentioned by the police. It has to examine the factual allegations and the material produced along with the final report as to whether he is required to be charged under section 115 of IPC or any other penal provisions of Law for the time being in force as physical presence is not an ingredient of Sec.115 of IPC. The accused cannot derive any advantage merely from the incorrect mention of the penal provision in the charge sheet.

23. If the material prima facie discloses an offence of criminal conspiracy or abetment, the Court is competent to frame an appropriate charge under the applicable provision of law in exercise of the power under Section 228 of Cr.P.C. The precise provision under which the charge is required to be framed can be considered separately at the stage of framing charge as conspiracy may be established either by physical

participation in the act or by a meeting of minds to commit the offence.

24. In the present case, the prosecution allegation is not limited to the presence of Accused No.7 at the place of occurrence. The main allegation is that he had a motive against the complainant, entered into an understanding with Accused Nos.1 and 2, supplied information regarding the complainant's movements and instigated the other accused to attack him. These allegations, if accepted as they stand, prima facie constitute an offence of conspiracy or abetment. The defence contention that the statement of Accused No.1 is false, that the complainant had maliciously implicated Accused No.7 and that no such conversation or agreement had taken place amounts to a denial of the prosecution case. Such disputed questions cannot be decided without recording evidence.

In the ruling in the case of Union of India V/s Prafulla Kumar Samal relied upon by the counsel for the accused, it is held as under:

“The words 'not sufficient ground for proceeding against the accused' clearly show that the Judge is not a mere post office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not A necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really his function after the trial starts. At the stage of section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. The sufficiency of ground would take within its fold the nature of the evidence recorded by the police or the

documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him.”

In the above ruling, it is held that strong suspicion may not take the place of the proof at the trial stage, yet it may be sufficient for the satisfaction of the Sessions Judge in order to frame a charge against the accused.

25. The Court is not required at this stage to determine whether the material is sufficient to convict Accused No.7. It is sufficient if there is a ground for presuming that he might have committed the offence. The charge-sheet material, when considered as a whole, raises grave suspicion against Accused No.7 and provides sufficient ground to proceed against him. Accordingly, this Court is of the considered opinion that Accused No.7 has not made out any ground for discharge under Section 227 of Cr.P.C. The point for consideration is answered **in the Affirmative.**

:: ORDER ::

The application filed by Accused No.7
**under Section 227 of the Code of Criminal
Procedure is hereby rejected.**

It is made clear that the observations
made in this order are only for the purpose of
deciding the present application.

*(Dictated to Stenographer, directly on computer typed by her taken out print, corrected
by me and then pronounced in the Open-Court on **28th day of July, 2026**)*

[Doddegowda K.]
III Addl. District & Sessions
Judge, Hassan.