

KAHV010014942020



IN THE COURT OF PRINCIPAL DISTRICT AND  
SESSIONS JUDGE & SPECIAL JUDGE (PCA), HAVERI.

PRESENT

SRI. K. C. SADANANDSWAMY  
B.Com., LL.M,  
Prl. District & Sessions Judge  
& Special Judge (PCA), Haveri.

DATED THIS 12<sup>th</sup> DAY OF JULY , 2024.

Spl. Case. SVC No. 3/2020

Complainant :

State of Karnataka  
Lokayukta Police Station  
Haveri.

(By Learned Spl. Public Prosecutor)

-Vs-

Accused :

Khajamainuddin S/o Abdulrahim  
Killedar, Age 39 years,  
Occ: Village Administrative Officer,  
Bisanalli Saja, R/o Jayanagar, Shigaon,  
Taluk Shiggaon, District Haveri.

(By Sri. Umesh N Gouli, Advocate)

**ORDER ON APPLICATION U/s 227 of Cr.P.C.**  
**FILED BY ACCUSED**

Accused has filed this application under Section 227 of Cr.P.C seeking permission of this court to discharge him from charge sheeted offences.

2. He has reiterated contents of complaint, FIR and charge sheet materials. He was working as village accountant, Hiremanakatti village in the year 2019. He has not demanded any bribe amount from the complainant at any point of time. This accused has completed his part of work , after receipt of the application of the complainant immediately. There is no work pending before this accused prior to trap date. The complainant has filed false complaint on 5.3.2019. There is procedural irregularity. The entire investigation done by Lokayukta police did not constitute any offence. The sanction authority has not considered documents collected. This accused is not involved in any criminal act. There are no sufficient evidence to frame charge against accused. Lokayukta police have prepared false trap panchanama. It is prayed that this application is to be allowed. Accused is to be discharged from charge sheeted offences.

3. The Special Public Prosector has filed objection to this application contending that the application is not tenable

under law. He has reiterated contents of complaint, FIR and charge sheet materials. The entire investigation conducted by IO has prima-facie made out that this accused has committed offences. There are sufficient material grounds to frame charge against accused. There are no valid and satisfactory grounds to allow this application. One opportunity has to be given to prosecution to prove its case during trial. It is prayed that application filed by accused under Section 227 of Cr.P.C is to be dismissed.

4. This Court has heard arguments on both sides and perused records carefully.

5. The following points are arisen for my consideration for decision of this case are as under:

- 1) Whether accused has made out valid and satisfactory grounds to allow application filed U/s 227 of Cr.P.C.?
- 2) What order?

6. My answer to above points are as under;

Point No.1 In affirmative

Point No.2 As per final order

for the following;

**:REASONS:**

7. **POINT No.1:-** I have carefully gone through contents of application, objection, complaint, FIR, statements of witnesses and other charge sheet materials meticulously and carefully. Lokayukta police filed charge sheet against accused for offence punishable under Section 7(a) of PC Act.

8. It is alleged in the complaint, FIR, police records and charge sheet that the complainant is an agriculturist by profession. His father died on 24.8.2018. The name of father of complainant has to be removed in the revenue records in respect of land Sy.No.12/2A and Sy.No.73/2. The name of complainant and other legal heirs are to be entered in the revenue records. Accused has demanded Rs.6000/- from the complainant for change of mutation in the revenue entries. On 2.3.2019, complainant has filed an application for change of revenue entries. Accused has demanded bribe amount from the complainant for rectification of revenue records and change of mutation entries. The complainant has approached ACB police Haveri and lodged complaint on 2.3.2019. On 5.3.2019, the complainant has visited office of accused and gave bribe amount of Rs.4000/-. Trap was successful. As per records of prosecution, there was a voice recorded between complainant and accused, which was

recorded in the mobile phone. IO has collected all records, documents and others. IO/PI has filed charge sheet against accused, after detail investigation.

9. By considering entire contents of complaint, FIR, pre-trap panchanama, trap panchanama and other prosecution papers, there is prima-facie case made out by prosecution to proceed against accused for framing charge. Accused has demanded bribe amount from the complainant for change of name of parties in the revenue records due to death of father of complainant. Accused has demanded bribe amount of Rs.6000/- several times over phone. Accused has caught red-handed while receiving bribe amount. Trap was successful. As per prosecution papers, IO has collected prosecution sanction order from concerned authority. Pre-trap panchanama clearly revealed the conversation was recorded between complainant and accused for a period of 12 minutes 12 seconds over phone. The same was transformed into CD. Lokayukta police recovered bribe amount of Rs.4000/- from accused as per trap panchanama, which is successful. Therefore, this court has to consider prima-facie charge sheet materials to proceed against accused. This court cannot hold mini trial at time of framing charge.

10. It is held in a decision of Supreme Court reported in copy of order in Criminal Appeal No-445 - 446/2019 dated 07/03/2019 (State by DySP and anti corruption, Tamilanadu V/s Doraiswamy). I do agreed with principle laid down in the said decision. The same is rightly applicable to case in hand and contention of learned special PP.

11. Under the present judiciary system, the scope of discharge application is limited. At the stage of framing of charge, the prosecution merely needs to display a prima-facie case against the accused from the material available on record and trial may thereafter commence. The court need not undertake an elaborate enquiry or mini trial at the time of decision of this type of application. This court has undoubted power u/S-227 of Cr.P.C. sift and weigh the evidence for limited purpose of finding of whether or not a prima-facie case against the accused has been made out.

12. It is held in decision reported in 2020 (2) KCCR SN 138 (SC) (Bhawna Bai Vs. Ghanshyam & others) that-

"Sections 227 and 228 -Framing of charge - Court not required to hold elaborate enquiry and record detailed reasons. Held, while exercising power under Section 228 of Cr.P.C., 9 Spl.Case,(SVC) No.7/2019 the judge is not required record his reasons for framing the charges against the accused. Upon hearing the parties and based upon the allegations and taking note of the allegations in the charge sheet, the Sessions Judge was satisfied that there is sufficient ground for proceeding against the accused and framed the charges against the accused. While so, the High Court was not right in interfering with the order of the trial Court framing the charges against the accused under Section 302 of IPC read with Section 34 IPC and the High Court, in our view, erred in quashing the charges framed against the accused. The impugned order cannot therefore be sustained and is liable to be set aside. Appeal allowed."

The principle laid down in said decision is rightly applicable to case in hand.

13. It is a fit case to disallow the application. I find no merits in the contentions of learned counsel for accused as regard to there are no sufficient material grounds to frame charge against accused. I find some force in the contentions of learned special PP as regard to there are sufficient material grounds to frame charge against accused. It is a fit case to disallow application filed by accused under Section 227 of Cr.P.C., I have constrained to answer point No.1 in negative.

14. POINT No.2: In result, I proceed to pass following;

**ORDER**

Application filed by accused U/s 227 of Cr.P.C is hereby dismissed.

Charge is going to frame against accused on next date of hearing.

(Dictated to Stenographer Grade-I transcribed and typed by her, print out taken, signed and corrected by me and then pronounced in open court on 12<sup>th</sup> day of July, 2024)

**(SRI. K. C. SADANANDASWAMY)  
PRL. DISTRICT AND SESSIONS JUDGE,  
HAVERI.**

(GNR)

-