

KAHV010018702025



**IN THE COURT OF I ADDL. DISTRICT & SESSIONS
JUDGE, AT HAVERI.**

DATED THIS THE 6th DAY OF OCTOBER 2025

PRESENT

SRI. N.M.Ramesha, *B.com, LL.B., LLM*
I Addl. District & Sessions Judge, Haveri.

S.C.NO. 37/2025

COMPLAINANT : State by Hanagal Police Station
(By Public Prosecutor)

Vs

ACCUSED No.9 : Subhash S/o Hanumantappa
Olekar, Age: 35 years,
Occ: Agriculture,
R/o: Kopparasikoppa,
Hanagal taluk, Haveri district.
(Sri.K.V. Viraktamath, Advocate)

ORDERS ON APPLICATION FILED BY THE LEARNED
COUNSEL FOR THE ACCUSED No.9 UNDER THE
PROVISIONS OF SECTION 250(2) OF BNSS, 2023 FOR
DISCHARGE THE ACCUSED No.9 FOR THE OFFENCES
PUNISHABLE UNDER SECTIONS 189(2), 191(2), 115(2),
126(2), 74, 351(2), 351(3) and 352 R/W SECTION 190 OF
BNSS, 2023

This is an application filed by the accused No.9 under the provisions of section 250(2) of BNSS, 2023 to discharge for the alleged offences punishable under the provisions of sections 189(2), 191(2), 115(2), 126(2), 74, 351(2), 351(3) and 352 R/W section 190 of BNSS, 2023, on the ground that the Hanagal police have submitted a false charge-sheet against accused No.9 for the offences punishable under the provisions of sections 189(2), 191(2), 115(2), 126(2), 74, 351(2), 351(3) and 352 R/W section 190 of BNSS, 2023. The allegations in the charge-sheet against accused No.9 that he came to the spot and hit the victim, but there is no documentary evidence produced along with charge-sheet against accused No.9. The accused No.9 is an innocent and was not involved in the crime. But, the Investigating Officer has filed the false charge-sheet against the accused No.9. The complainant has filed the complaint against the accused No.9 with an intention to harass the accused No.9. It is on these among other grounds, the learned counsel for the accused No.9 has prayed for allow the application.

2. The Learned P.P for State has resisted the application by filing detailed objection reiterating the complaint allegations and further contended that the application is not maintainable either under law or on facts. The police have filed the charge-sheet against the accused for the offences punishable under the provisions

of sections 189(2), 191(2), 115(2), 126(2), 74, 351(2), 351(3) and 352 R/W section 190 of BNSS, 2023. The grounds urged in the application is specifically denied. The accused No.9 has not made out any grounds for discharge for the alleged offences. The Investigating Officer has recorded the statements of witnesses and secured the material documents and based on the said materials, the Investigating Officer has come to the conclusion that there is prima-facie case against the accused No.9 and therefore, filed the charge-sheet against the accused No.9 and based on the charge-sheet, the court has also taken the cognizance for the alleged offences. The materials collected by the Investigating Officer during the course of investigation prima-facie establishes the case against the accused and hence, since there are sufficient materials on record, question of discharging the accused No.9 under section 250(2) of BNSS, 2023, for the alleged offences does not arise and the application is liable to be dismissed.

3. I have heard the arguments of both side and perused the application, objection and the materials placed on record.

4. Now the points that would arise for my consideration are as under:

1. Whether the accused No.9 has made out sufficient grounds to come to the conclusion that upon consideration of the record of the case and the documents

submitted along with police report, there is not sufficient grounds for proceeding against him and therefore, he is entitled for discharge for the offences punishable under the provisions of section 189(2), 191(2), 115(2), 126(2), 74, 351(2), 351(3) and 352 R/W section 190 of BNSS, 2023, and whether the application filed under section 250(2) of BNSS, 2023, is deserves to be allowed or not ?

2. What order ?

5. On considering and assessing the materials placed on record, now my answers to the above points are as under:

Point No. 1 : In the **Negative**,

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

REASONS

6. **POINT NO.1:** The provisions of section 250(2) of BNSS, 2023, deals about discharge. As per this provision of law, 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.

7. The learned counsel for the accused No.9 has argued with force by referring to the contents of complaint, statement of complaint and other charge-

sheet materials that the Hanagal police have submitted a false charge-sheet against accused No.9 for the offences punishable under the provisions of sections 189(2), 191(2), 115(2), 126(2), 74, 351(2), 351(3) and 352 R/W section 190 of BNSS, 2023 and the allegation in the charge-sheet against accused No.9 that he came to the spot and hit the victim, but there is no documentary evidence produced along with charge-sheet against accused No.9 and the accused No.9 is an innocent and was not involved in the crime, but the Investigating Officer has filed the false charge-sheet against the accused No.9 and the complainant has filed the complaint against the accused No.9 with an intention to harass the accused No.9 and therefore, the accused No.9 is entitled to an order of discharge for the alleged offences.

8. Per-contra, the learned P.P for State has argued with force by referring to contents of complaint and other charge-sheet materials that the Investigating Officer has recorded the statements of witnesses and secured the material documents and based on the said materials, the Investigating Officer has come to the conclusion that there is prima-facie case against the accused No.9 and therefore, filed the charge-sheet against the accused No.9 and based on the charge-sheet, the court has also taken the cognizance for the alleged offences and the materials collected by the Investigating

Officer during the course of investigation prima-facie establishes the case against the accused and hence, since there are sufficient materials on record, question of discharging the accused No.9 under section 250(2) of BNSS, 2023., for the alleged offences does not arise and the application is liable to be dismissed.

9. Now keeping the provisions of section 250(2) of BNSS, 2023 and the arguments canvassed by both the side in mind, let us consider as to whether the accused No.9 has made out sufficient grounds to come to the conclusion that upon consideration of the record of the case and the documents submitted along with police report are not sufficient grounds for proceeding against her and therefore, he is entitled to an order of discharge for the alleged offences or not.

10. According to the accused No.9 that the Hanagal police have submitted a false charge-sheet against him for the offences punishable under the provisions of sections 189(2), 191(2), 115(2), 126(2), 74, 351(2), 351(3) and 352 R/W section 190 of BNSS, 2023 and the allegation in the charge-sheet against him that he came to the spot and hit the victim, but there is no documentary evidence produced along with charge-sheet against him and he is an innocent and was not involved in the crime, but the Investigating Officer has filed the false charge-sheet against him and the complainant has filed the complaint against him with an intention to

harass him and therefore, he is entitled to an order of discharge for the alleged offences.

11. But, according to the case made out by the prosecution that on 26.12.2024, in between 1.00 p.m to 2.00 p.m., the accused No.1 to 9 unlawfully assembled in front of their house situated at Kopparasikoppa village of Hanagal taluk and committed rioting by holding deadly weapons like sticks and picked up the quarrel with deceased and abused him in filthy language as Boosadimaga on the ground that, the deceased was having illicit relationship with one Smt. Rekha and in furtherance of their common intention to commit murder, the accused No.1 to 9 have hold the deceased and dragged him near electric pole and tied the deceased into electric pole by using rope and assaulted with sticks on his hands, thighs, chest and head and caused bleeding injuries and the accused persons put the chappals into the neck of the deceased and also put the chappals into the mouth of deceased and lit the fire by using paddy grass and the public who were gathered at the scene of offence took the deceased and two other injured persons to the Hanagal Government Hospital, wherein the deceased succumbed to injuries and therefore, there are prima-facie materials to proceed against the accused No.9 for the alleged offences.

12. Under these circumstances, whether the accused No.9 has committed the alleged offences under

the provisions of sections 189(2), 191(2), 191(3), 115(2), 118(1), 126(2), 103(1), 133, 74, 352, 351(2) 351(3) and 49 R/W section 190 of BNSS, 2023 or not is a matter which requires evaluation of evidence to be recorded at the trial after framing the charge against the accused No.9 for the alleged offences. Further, whether the accused No.9 has been implicated in the crime without any materials or not is also a matter which requires evaluation of evidence to be recorded at the trial after framing the charge against the accused No.9 for the alleged offences.

13. But, at this stage of proceedings while considering the nature of application filed under section 250(2) of BNSS, 2023., the court cannot conduct a mini trial to adjudicate all these controversies between the prosecution and the defense which requires full-fledged trial. At the stage of considering the application under section 250(2) of BNSS, 2023, for the purpose of discharge of the accused No.9, the court has come to conclusion that upon consideration of the record of the case and the documents submitted along with police report, there is not sufficient grounds for proceeding against the accused No.9 to frame charge and hence, the accused No.9 is entitled to an order of discharge for the alleged offences.

14. But, in this case, the offences alleged against the accused No.9 are punishable under the provisions of

sections 189(2), 191(2), 191(3), 115(2), 118(1), 126(2), 103(1), 133, 74, 352, 351(2) 351(3) and 49 R/W section 190 of BNSS, 2023 and it is alleged against the accused No.9 that he came along with other accused and all the accused unlawfully assembled in front of their house and committed rioting by holding deadly weapons like sticks and picked up the quarrel with deceased and abused him in filthy language on the ground that the deceased was having illicit relationship with one Smt. Rekha who is admittedly the wife of present accused No.9 and all the accused hold the deceased and tied the deceased into electric pole with rope and assaulted with sticks on the hands, thighs, chest and head of the deceased and garland with chappals and also put the chappals into the mouth of deceased and lit the fire by using paddy.

15. The name of accused No.9 finds a place in the complaint, statement of witnesses and charge-sheet materials. Under these circumstances, question of discharging the accused No.9 for the alleged offences at this stage of proceedings without trial does not arise. On consideration of police report, complaint allegations, statement of witnesses and the documents produced along with police report, this court is of the considered view that there are sufficient materials placed on record to frame the charge against the accused No.9 for the offences punishable under the provisions of sections 189(2), 191(2), 191(3), 115(2), 118(1), 126(2), 103(1),

133, 74, 352, 351(2) 351(3) and 49 R/W section 190 of BNSS, 2023. Hence, I hold that the accused No.9 has not made out any sufficient grounds to discharge for the offences punishable under the provisions of sections 189(2), 191(2), 191(3), 115(2), 118(1), 126(2), 103(1), 133, 74, 352, 351(2) 351(3) and 49 R/W section 190 of BNSS, 2023. Hence, I answer point No.1 in the **negative**.

16. POINT NO. 2 : I view of my findings on point No.1, I proceed to pass the following.

ORDER

The application filed by the accused No.9 under the provisions of section 250(2) of BNSS, 2023, is hereby dismissed holding that there are sufficient materials to frame the charge against the accused No.9 for the offences punishable under the provisions of sections 189(2), 191(2), 191(3), 115(2), 118(1), 126(2), 103(1), 133, 74, 352, 351(2) 351(3) and 49 R/W section 190 of BNSS, 2023.

(Directly dictated to the Stenographer on computer, typed by him, corrected, signed and then pronounced in the open court on this the 6th day of October, 2025.)

(N.M. Ramesha)
I Addl. District and Sessions Judge,
Haveri.