

KAMS010050872022



**IN THE COURT OF THE III ADDL DISTRICT & SESSIONS  
JUDGE, MYSURU**

**Present:** Smt.K.Bhagya, B.A.,L.L.B.

**Dated this the 19<sup>th</sup> day of September 2024**

**SC/252/2022**

**Complainant:**

State by Saraswathipuram Police Station,  
reptd. By Public Prosecutor, Mysuru  
District, Mysuru.

/vs/

**Accused No.6:**

Goutham Pitliya S/o Kanayya Lal Pitliya  
Aged about 33 years, R/at B.J.Juwellers,  
No.583/1, 4<sup>th</sup> West Cross, Ashoka Road,  
Lashkar Mohalla, Mysuru.

**Order on application filed U/s 227 of Cr.P.C by the  
accused No.6**

The accused No.6 has come up with this application stating that the complainant police have registered a case in their Cr.No.142/2013 against him and others for the offences punishable U/s 457, 380, 413 of IPC. Now, it is numbered as SC.No.252/2022 pending before this Court.

2. In the application, the accused No.6 stated that the police have filed the charge sheet against him for the offence punishable U/s 413 of IPC. The above case has been posted today for HBC. As per the complaint and charge sheet witnesses, there are no allegation against him and he is totally stranger to this case. In the FIR this accused was not arrived as an accused. Intentionally, the complainant police have created mahazar and inserted his name. The complainant has forced the witnesses and instructed to tell lies that the witnesses were present and saw this accused and arrayed as accused No.6 in this case. The complainant police have not recovered any of the items shown in the mahazar/charge sheet and also in the statement of the witnesses. This accused No.6 never purchased the gold and silver items from the accused No.1 to 5 and from any unknown persons. This accused No.6 never saw accused No.1 to 5 at any point of time. The mahazar was drawn in the police station only. This accused arrived as witness in this case and he has not committed any offence. He is appearing before this Court since 2015. He is innocent and law abiding citizen. Intentionally the complainant police have filed charge sheet against him. Hence, prayed to discharge him from the alleged offence and prayed to allow the application.

3. The learned PP has filed objections to the application filed by the accused No.6 and contended that the application is not maintainable either in law or on facts of the case. The case papers reveal that there is prima-facie case

against this accused. This accused No.6 knowingly has purchased the stolen gold and silver ornaments from the accused No.1 to 5. There are documents to prove that the accused No.6 had purchased the stolen ornaments in other cases also. There are no grounds to discharge the accused No.6 in this case. Thus, he has not made out any grounds to discharge him from the alleged offence. Hence, prayed to reject the application.

4. Heard the argument of both side.

5. Now the points that arise for my consideration are:-

1. Whether the accused No.6 has made out grounds to allow the present application?

2. What order?

6. My answers to the above points are as follows:-

Point No.1 : In the Negative.

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

### **REASONS**

#### **POINT NO.1:**

7. This Court has gone through the charge sheet. The Saraswathipuram Police Station, Mysuru, filed the charge sheet against 6 accused for the offences punishable U/s 457, 380, 413 of IPC. The case against accused No.1 to 5 split up.

This SC.No.252/2022 is now against this accused No.6 Goutham Pitliya only. The IO invoked Sec.413 of IPC against this accused No.6. After appearance of this accused No.6 before this Court, the case has been posted for HBC. At this juncture, he has come up with this application. As per Sec.413 of IPC the allegation against him is that he is the receiver of stolen property in this case. He had received/purchased stolen property from accused No.1 to 5. The IO seized the gold ornaments from this accused No.6 through the mahazar. Of course, at first there was no allegation against this accused No.6 and he was not arrayed as accused No.6. But, during the investigation, as per the voluntary statement of accused No.1 to 5, the IO seized gold ornaments from this accused No.6 through the mahazars. Moreover, the learned PP also argued that the IO also recovered the gold and silver ornaments from this accused No.6 in other cases also. So, it reveal that he has been habitually involved in purchasing the stolen properties. But, before this Court he has argued that the complainant police instructed the witnesses to tell lie. Further, the mahazars drew at the police station. These aspects have to be proved or revealed during the trial only. But, at this juncture, there is a prima-facie case against this accused No.6 for the offence punishable U/s 413 of IPC. In the application, no grounds have been made out to discharge him from the alleged offence. Thus, the accused No.6 has not made out

grounds to discharge him from the alleged offence at this juncture. Hence, I answer point No.1 in the **Negative**.

**POINT NO.2 :**

8. In the result, I proceed to pass the following:-

**ORDER**

The application filed by the accused No.6 U/s  
227 of Cr.P.C is hereby rejected.

(Dictated to the Stenographer directly on computer and then pronounced in the open court on this the 19<sup>th</sup> day of September 2023)

(K.Bhagya)  
III Addl. District & Sessions Judge,  
Mysuru.

(Order pronounced in open Court vide separate  
Order)

**ORDER**

The application filed by the accused No.6  
U/s 227 of Cr.P.C is hereby rejected.

**III AD & SJ, Mysuru.**