

KAMS010063202024

SC/170/2024

**IN THE COURT OF THE IV ADDL. DISTRICT AND
SESSIONS JUDGE, MYSURU**

Dated this the 15th day of May 2026

:PRESENT:

**Sri. P.J.Somashekar, B.A. LL.M.,
IV Addl. District & Sessions Judge
Mysuru**

SC/170/2024

Complainant: State by : Narasimharaja Police
Station. Mysuru

(By Public Prosecutor)

V/s

Accused person Sri Yogesha
@ [Yogi @ Shasthri](#),
S/o Late Mukunda Rao,
Aged about 42 years,
Residing at
D.No.197, K.R.Mill Colony,
Siddalingapura Post,
Mysuru District.

**(By Sri.Rohith Subbayya-
Adv.,)**

**ORDERS ON APPLICATION FILED UNDER SECTION
227 OF CR.P.C.**

This is an application U/s 227 of Cr.P.C. filed by the accused and sought for discharge from the offences which alleged against him.

2. **THE NUTSHELL OF THE APPLICATION ARE**

AS UNDER:

The learned Counsel for the Accused has filed the instant Application stating that the complainant police have registered the case against the Accused for the offences punishable U/Sec. 307, 341, 354(D), 504 and 506 of I.P.C. The allegation made in the complaint and the materials produced as evidence along with the charge-sheet are self contradictory and do not establish the tenable case against the Accused. The alleged injury was allegedly caused to the extremity of the lower limbs of the alleged victim, therefore, the offence U/Sec.307 of I.P.C., cannot attracted to the case on hand and bare reading of the charge-sheet shows that there is no tenable case established by the prosecution and the instant case is not maintainable against the Accused and

the charge-sheet which filed by the complainant police does not disclose the commission of the offences alleged against the Accused and there is no prima-facie case has been made out to necessitate the conduct of the trial and prays for allow the Application.

3. The learned Public Prosecutor filed the objection stating that the Application which filed is not maintainable in law or on facts and if the complaint and the charge-sheet are taken into consideration it is clear there are grounds to proceed against the Accused and the Accused has not made out any grounds to show there are no grounds to proceed against the Accused. The statement of the witnesses and other materials corroborate the prosecution case which are reveals about the guilt of the Accused and prays for reject the Application.

4. The learned Counsel for the Accused filed the written argument.

5. Heard the arguments on both side.

6. The points that arise for court consideration are as

under:

1. Whether the Accused has made out that there is no grounds to proceed the case against him which are groundless and entitled for discharge?

2. What order?

7. 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::

8. **Point No.1**: Before embarking on point No.1, it is just and necessary to narrate the gist of the case for the proper appreciation of point No.1, as the complainant namely Smt.Sowmya W/o Sukanda Raju, Aged about 33 years, residing at D.No.299, Near Chamundeshwari Temple, K.R.Mill Colony, Mysuru town stating that she is residing in the above said address, about 16 years back her marriage was taken place with one Sukandaraju, out of their wed-lock

2 children are born and her husband was working at RBI., since one year she is working at SPD School situated at Siddalingapura for their livelihood, every day she used to go to the school by walk, one Yogesh is none other than her neighbourer running Auto Rickshaw, about one year back the said Yogesh wrongfully restrained her and demand her to marry him and she has informed the same to her husband and her husband advised the Yogesh since from he has not given any trouble to her nor spoken with her, but since one week following her by showing signals. On 15.07.2023 at 2.00 p.m., when she was proceeding towards her house side after finishing school work and the Yogesh was came in bike, parked the vehicle near by canal and called her inspite of the same she was proceeding on the road even then he was following her and assaulted by means of long and ran away through bike, as a result she was sustained the injuries and

neighbourers were came there and brought her to her house and her father took her to Prajwal Hospital and took the treatment as in-patient. So, based on the said complaint the case was came to be registered against the Accused by the N.R.Police for the offences punishable U/Sec. 307, 341, 354D, 504 and 506 of I.P.C., and the Accused has been appeared before the court below and he has been remanded to the judicial custody and later on released on bail as per the orders of this Court in Crl.Misc.No.700/2024 and after completion of the investigation the Investigating Officer filed the charge-sheet against the Accused before the III Addl.Civil Judge and JMFC., at Mysuru and very Court committed this case to this Court.

9. After receipt of entire records ordered for issue summons to the Accused, in response of the summons the Accused has been appeared through the counsel and

released on bail and come up with instant Application and sought for to discharge from the offences alleged against him.

10. The learned Counsel for the Accused apart from the written arguments has submitted the Accused has not at all committed the offences which alleged against the accused, but falsely implicated only with an intention to harass the Accused and the allegations made in the complaint and the materials on record are self contradictory and did not establish the tenable case against the Accused and there are no grounds to discharge the case against the Accused, and the statement of the victim clearly shows the Accused followed her in a motorcycle ad demanding her to sat on the motorcycle and assaulted her by means of long, that itself is clear that there is no intention to kill her, so Sec.307 of Cr.P.C., is not attracted, even other offences also not attracted against the accused and prays for allow the Application.

11. Per contra, the learned Public Prosecutor in her arguments has submitted that the Application which filed is not maintainable in law or on facts, if the averments of the complaint and other averments on record are taken into consideration there are sufficient grounds to proceed the Accused against the accused, so question of discharge the Accused for the offences alleged against her does not arise and prays for reject the Application.

12. It is an admitted fact, the Accused has come up with the instant Application on the ground that the alleged injury was allegedly caused to the extremity of the lower limbs of the alleged victim, Therefore, the offence U/Sec. 307 of I.P.C., cannot be attracted, so before considering the arguments which advanced and the materials on record let me know Sec.307 of I.P.C., which reads like thus"-

"307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he

would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is herein before mentioned.

Attempts by life convicts.— When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

The above provision is very much clear who ever does any act with such intention or knowledge if he by that act caused the death would be guilty of murder, shall be punishable with imprisonment of either description for a term which may extent to 10 years shall also liable to fine and if hurt is caused to any person by such act shall be liable either imprisonment for life or such punishment. So in order

to bring the case within the ambit of Sec.307 of I.P.C., the prosecution has to establish that the Accused did act and the said act was done with an intention of causing death or with the intention of causing such bodily injury knowing that to be likely to cause death of the person to whom the harm was attempted and causing bodily injury to a person and the bodily injury intended to be caused would have been sufficient. So, it is not essential that bodily injury capable of causing death should have been implicated, although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the Accused and Sec.307 makes a distinction between the act of the Accused and its result.

13. The learned counsel for the accused has much argued that there are no grounds to proceed the case against the accused and the grounds which urged are not sufficient to proceed with the case and the alleged injury which caused is extremity of the lower limbs, but if the close

reading of the provision as stated supra is taken into consideration that any act with such intention or knowledge, therefore, even if a person having a intention to kill any person having the knowledge if by his act causing hurt and death would sufficient to bring the case within the ambit of Sec.307 of I.P.C.

14. It is an admitted fact, the complainant in the complaint has clearly stated about the malafide intention of the Accused prior to the incident and she has clearly explained about his malafide intention and his conduct even though her husband has advised him not to misbehave with her even then he has followed her to show his intention and the averments of the complaint and materials on record are taken into consideration it is clear that there are grounds to proceed the case against the Accused.

15. The learned Counsel for the Accused drawn the Court attention on the Judgment of the **Hon'ble Supreme Court of India reported in 2022 Supreme(SC)1759 in**

between Manoj Singh Versus The State of Bihar. In the said Judgment their lordship held that the Court analyzed the evidence and testimony of the witnesses to establish that the Appellants caused hurt using fire arms during an altercation leading to their conviction U/Sec. 324 of I.P.C., and Sec.27 of the Arms Act and the Medical Evidence corroborated the fire arm injuries. So the Hon'ble Supreme Court of India dismissed the appeal and upheld the conviction of the Hon'ble High Court of Karnataka U/Sec. 324 of IPC and U/Sec. 27 of the Arms Act, and moreover at this stage, Court cannot conduct the mini trial to know whether the Accused has committed the offence or not as it requires full fledged trial, at this stage court has to consider only prima-facie material to proceed the case against the accused and also grounds to proceed against the accused. If the materials on record are taken into consideration that there are sufficient grounds to proceed the case against the Accused. Therefore, the decision which relied instead of help

the Accused it helps the prosecution, hence, I am of the opinion, point No.1 is answered in the **Negative**.

16. **Point No.2:-** In view of my answer to the point No.1 as stated supra, I proceed to pass the following:

ORDER

The application under Section 227 of Cr.P.C., filed by the Accused is hereby ***Rejected.***

(Dictated to the Stenographer Grade-III, directly on computer, then corrected by me, signed and pronounced in the Open Court this the **15th day of May 2026**).

(P.J. SOMASHEKHAR)
IV Addl. District & Sessions
Judge, Mysuru.