

KAMS010073172024



IN THE COURT OF THE IV ADDL. DISTRICT & SESSIONS
JUDGE: MYSURU.

DATED THIS THE 07th DAY OF May 2026

PRESENT

SRI. P.J.SOMASHEKAR, B.A.,L.L.M.,
IV ADDL. DISTRICT & SESSIONS JUDGE:
MYSURU.

Crl.R.P./240/2024

Petitioner:

1. Sri Nandeesha S/o
Gurushanthappa,
Aged about 39 years,

2. Shashirekha W/o Nandeesha,
Aged about 34 years,

Both are residing at:
No.446, Hinkal, Kasaba Hobli,
Mysuru taluk and district.

(By Sri N.Ravikumar Adv.,)

Versus

Respondent

: State by Vijayanagara Police,
Mysuru

(By learned Public Prosecutor)

ORDERS

This is a petition U/Sec. 397 of Cr.P.C filed by the petitioner/accused and sought for to set aside the order passed by V JMFC at Mysuru in CC No.1798/2021 dated 10.07.2024 in consequence to allow the application and to discharge them from the charges which are leveled against them.

2. Nutshell of the petition are as under:

The learned counsel for the petitioner in the petition has alleged that the respondent police have registered a false case in crime No.46/2021 and filed the charge-sheet in CC NO.1798/2021 against the petitioner No.1 and 2 for the alleged offences punishable under Section 506, 504, 353 R/w 34 of IPC and there are no reasonable grounds to suspect the complicity involvement of the petitioner No.1 and 2 in the commission of alleged offences. The petitioner No.1 and 2 have been falsely implicated in a wrongful manner that is the reason why have filed the application to discharge them from the charges which are leveled against them which came to be dismissed on 10.07.2024 and the respondent police have

made frivolous allegations against the petitioners on the ground the petitioners have insulted the complainant during the investigation in another case in crime 34/2021 is entirely false and baseless and the same has been registered against the family members of the petitioner to harass the accused person in wrong full manner the allegations made are completely false.

3. The learned counsel for the petitioner in the petition has further alleged that the complainant police after conducting an improper investigation submitted the charge-sheet in crime No.46/2021 dated 09.03.2021 the allegations made in the complaint does not disclose the alleged offences against the petitioners and the complainant police have registered false case against the family members of petitioners and filed the charge-sheet in CC No.9969/2022 pending on the file of I Addl. Senior Civil Judge and CJM at Mysuru and the matter which involved is purely in civil nature , the accused persons in that case have filed the civil case against the complainant in O.S.No.1208/2020 pending on the

file of XII Addl. Civil Judge and JMFC. At Mysuru. The materials collected by the investigating agencies do not prima facie disclose that the petitioners have committed the alleged offences and there are no sufficient materials to suggest that the petitioner No.1 and 2 have committed the alleged offences. The report submitted by the police does not contain effective facts and evidence and there are contradictions in the complaint and statement of the witnesses and the matter involved is purely civil in nature. The petitioner No.1 and 2 are innocent falsely implicated in the alleged offences, the allegations made absolutely false and improbable and there are no ingredients of the alleged offences against the petitioners which is nothing but abuse of process of law and falsely implicated only with an intention to harass the petitioners which results in miscarriage of justice and there are no sufficient materials to frame the charge against the petitioners and prays for allow the petition.

4. In response of the notice the respondent has been appeared through the learned Public Prosecutor.

5. Heard the arguments on both sides.

6. The points that arise for Court consideration are as under:

1. Whether the petitioners have made out that the charges made against them are groundless entitled for discharge ?
2. Whether the petitioners have made out that the order passed by the court below is perverse, capricious, illegal and interference of this court is warranted?
3. What Order?

7. My answer to the aforesaid points are as under:

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

Point No.2: **In the Negative.**

Point No.3: As per the final order,
for the following;

::REASONS::

8. **Point No.1 and 2:** Before embarking on point No.1 and 2 it is just and necessary to narrate the gist of the case for the proper appreciation of the point No.1 and 2, as the petitioners are being the accused have filed the application under Section 239 of Cr.P.C and sought for to discharge them from the charges leveled against them on the

ground that they have not insulted the complainant during the investigation and the materials which collected by the Investigating Officer are not discloses that they have committed the alleged offences even there are no sufficient materials to proceed with the case against the petitioners as they have not involved in the alleged offences and there are no materials against the petitioners for which the respondent filed the objections after hearing the arguments by the court below rejected the application so feeling aggrieved by the said order have filed the instant petition.

9. The learned Counsel for the petitioner in his arguments has submitted a false case has been registered against the petitioner though they have not committed the offences which alleged against them, though Investigating Officer collected the materials against the petitioners which are not discloses about the prima facie materials to proceed with the case nor made out that there are prima facie case about the guilt of the petitioners and the charges made against the petitioners or ground less, though this fact was brought to the notice of the court below that the charges

made against the petitioners are groundless to proceed with the case against the petitioners even then the court below rejected the application. Therefore, this court interference is required to set aside the order passed by the court below and to discharge the petitioners from the offences which allege against them and prays for allow the petition.

10. Per contra the learned Public Prosecutor in her arguments has submitted if the materials which collected by the Investigating Officer are taken into consideration it is clear there are prima facie materials to proceed with the case against the petitioners that is the reason why the court below rightly rejected the application and at this stage court cannot conduct the mini trial to know whether they have committed or not as it requires full fledged trial at this stage court has to consider only prima facie materials to proceed with the case. If the materials on record are taken into consideration it is clear that there are prima facie materials on the grounds to proceed with the case and prays for reject the petition.

11. It is an admitted fact the petitioners have filed the application under Section 239 of Cr.P.C. and sought for discharge them from the alleged offences on the ground that the materials which collected by the Investigating Officer are groundless to proceed the case against them. Thus this court drawn its attention on Section 239 of Cr.P.C which reads like this:

If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

Thus Section 239 of the Code of Criminal Procedure (CrPC), 1973, empowers a Magistrate to discharge an accused in a warrant case instituted on a police report if, after considering the report, documents, and hearing both sides, the charges are deemed "groundless". The Magistrate

must record reasons for the discharge. The legislatures have introduced Section 239 of Cr.P.C to prevent harassment of an accused when there is no sufficient grounds to proceed against them that to in a pre-trial stage e.i., before framing charges, the core principles is let a hundred guilty be acquitted but one innocent should not be convicted and Section 239 of Cr.P.C applies only warrant cases instituted on a police report and Section 239 of Cr.P.C as to safe guard the accused were there are malicious or frivolous prosecution. Now let me know the materials on record. Admittedly, charge-sheet has been filed against the accused for the offence punishable under Section 353, 504 and 506 R/w 34 of IPC in which there is an allegation against the accused that one WPC 1082 Kum.Akshatha and WPC 195 Smt.Koushalya along with CPC 1258 have been deputed to serve the police notice in crime No.34/2021 for the offence punishable under Section 420, 406, 504 R/w 34 of IPC when the staff of the police had been to the petitioners house to serve the notice in crime No.34/2021 the petitioner misbehaved with the police staff by abusing in filthy words

and obstructed in discharging their duties and threatened to take away their lives because of that reason case was came to be registered against the petitioners, though the petitioners were filed the application to discharge them from the offences which alleged against them came to be rejected. After considering the materials on record so the materials which on record reveals that there are sufficient materials on the ground to proceed with the petitioners/accused.

12. It is an admitted fact the court below rejected the application on 10.07.2024 and the petitioners have filed the instant petition on 10.10.2024 and the court below already framed the charge on 21.10.2024. so one thing is clear the provision which coated in the application applicable before framing the charge even the petitioners have not sought for to stay the order or to stay further proceeding of the court below till the disposal of instant petition. However, the petitioners have filed the application and sought for to stay the order passed by the court below. But the reasons best known to the petitioners have not pressed the application instead proceed with the case and moreover they have not

filed any application before the court below to postpone the case for framing of charge till the disposal of instant petition. Thus it is clear the charge is already framed by the court below and fixed the trial and the petitioners have not made out that the charges made against them prima facie groundless to proceed with the case against them on the other hand the materials on record prima facie reveals that there are grounds to proceed with the case against the petitioner. Therefore, the court below after considering the materials on record rightly rejected the application and the petitioners have failed to prove that the order passed by the court below is perverse, illegal and capricious and interference of this court is warranted. Hence, I am of the opinion that the point No.1 and 2 answered in the ***Negative.***

13. Point No.3: In view of my answer to the point No.1 and 2 as stated supra I proceed to pass the following:-

::O R D E R::

The petition filed U/Sec.397 of Cr.P.C by the petitioners is hereby dismissed.

The orders passed by the V JMFC., at
Mysuru in CC No.1798/2021 dated 10.07.2024
is hereby confirmed.

Office is hereby directed to send back the
TCR with copy of the orders forthwith.

(Dictated to the Typist directly on Computer, corrected and then pronounced by me in the
Open Court, on this the **07th day of May, 2026**)

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