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

Dated this the 7th day of August, 2023

:: PRESENT ::

Sri Mallanagouda, B.Com., LL.M.,
IV Addl. District & Sessions Judge,
Mysuru.

SC/386/2022

Complainant :

The State by
Nanjangud Town
Police Station,
Mysuru District.

(By **Public Prosecutor**)

Vs

Accused

Sri.Sunilkumar
S/o N S Chamaraju,
Aged about 41 years,
D.No.335/A, 3rd "D" Main,
5th Cross, RR Layout,
Nagadevanahalli,
Bengaluru City.

(By Sri N.Deenabandhu Rai- Adv.,)

:: ORDERS ON APPLICATION FILED
U/Sec.227 of Cr.P.C.::

This is the case in which on the basis of the complaint filed by the complainant Kum.Shivamma, Police-Sub-Inspector of Traffic Police Station, Nanjangud stating that on 01.11.2019 at about 5.30 p.m., when she was checking the vehicles near Apollo Circle of Nanjangud Town Breeza Car bearing Reg.No.KA-41-MC 4591 came from Nanjangud Temple side and as the driver was not wearing the Seat-Belt she asked him to pay fine. But the said driver spoke to her in loud voice, though she was standing in front of the Car, he tried to drive the Car towards front. Though he was having knowledge about the fact that if he drive the Car like that there is every possibility of causing accident. Thereafter, he came down from the Car, abused her in filthy language and he interfered in her discharging duty as public servant.

2. On the basis of the said complaint an FIR came to be registered, after conducting the investigation Charge-Sheet is filed for the offences punishable U/Sec.308, 353, 354, 504, 509 and 506 of IPC.

3. On the basis of the said Charge-Sheet learned JMFC., has taken cognizance and committed the same to this Court.

4. Now, the Accused has filed application U/Sec.227 of Cr.P.C seeking to discharge him on the following grounds:-

There is no prima-facie material available on record to disclose that the Petitioner is involved in the said crime. There is delay in preferring the complaint. The Challan is only for not wearing seat belt, but not for driving the Car in rash and negligent manner which shows that there is no attempt made for culpable homicide. The video allegedly recorded during the investigation is not produced. In fact the said video is regarding the complainant harassing the Accused, therefore the same has been deleted from the U-Tube. At the time of the said incident, the family members of the Accused were present. Hence, question of Accused committing offence of outraging the modesty of woman in the presence of his wife and mother does not arise. Therefore the Accused is entitled for his discharge.

5. On the other hand, the learned Public Prosecutor has filed objection to application of the Accused stating that there is sufficient material to show that the Accused has committed the offences punishable U/Sec. 308, 353, 354, 504, 509 and 506 of IPC., hence after the investigation, the Investigating Officer filed the Charge-Sheet for the said offences. She has relied upon many judgments of Hon'ble High Court of Karnataka and Hon'ble Supreme Court of India in which it is held that

application U/Sec.227 Cr.P.C cannot be considered before commencing of the Trial Court. On the basis of the above points, the application is liable to be rejected.

6. Heard arguments of learned counsel for accused and learned Public Prosecutor.

7. Perused the records.

8. On the basis of the above discussion, the only point that arise for my consideration is:

Whether the accused is entitled for discharge as claimed in application filed U/Sec.227 of Cr.P.C?

9. My finding on above point is in the ***Negative*** for the following ;

REASONS

10. On perusal of the materials on record, it appears that as rightly contended by the learned Public Prosecutor at the time of deciding the application U/Sec.227 of Cr.P.C., merits of the case cannot be looked into. In case if the materials produced along with the Charge-Sheet are accepted as true there is material to show that the Accused has committed offences alleged against him then the Accused is not entitled for discharge. The reasons stated by the Accused in the application filed U/Sec.227 of Cr.P.C. which are regarding delay in filing the complaint, not issuance of challan for rash and negligent driving are all materials to

be considered at the time of final hearing of the matter, but not at this stage. Therefore, at this juncture the application filed by the Accused is not maintainable and the same is liable to be rejected. Hence, the above point is answered in the ***Negative*** and hence the following :-

ORDER

The application filed by the accused
U/Sec.227 of Cr.P.C., is hereby **REJECTED**.

[Dictated to the Stenographer directly on computer, corrected, and signed by me and then pronounced in the Open Court, on this the **7th day of August, 2023**].

(MALLANAGOUDA)

IV Addl. District & Sessions Judge,
Mysuru.