

**IN THE COURT OF ADDITIONAL CIVIL JUDGE  
AND JUDICIAL MAGISTRATE FIRST  
CLASS, AT HEGGADADEVANAKOTE**

**PRESENT**

**Sri. SURESHA S.N.,** B.A, LL.B.  
Additional Civil Judge & JMFC  
Heggadadevanakote

**Dated: 12<sup>th</sup> Day of September 2024**

**C.C. No.515/2019**

Complainant: State by Saraguru Police Station  
(Rep. By Asst. Public Prosecutor)

- Vs -

Accused: Sri. Thimmegowda and others

Applicant : A3- Sri. Punithraj  
S/o Nagaraj  
Aged about 19 years  
R/at Hosaholalu village,  
H.D. Kote Taluk,  
Mysuru District.

(By Sri. K.R. Shivarudrakumar,  
Advocate)

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**ORDERS ON APPLICATION FILED BY THE  
ACCUSED NO.3 UNDER SECTION  
239 OF Cr.PC**

The counsel for accused No.3 has filed application under section 239 of Cr.PC praying to discharge the accused No.3 from the charge leveled against him.

2. It is stated in the application that, the complainant police have submitted charge sheet against accused persons for the offences U/sec.323, 324, 504, 506 r/w 34 of IPC. The accused No.3 is an innocent and law abiding citizen. He has not committed any offence as alleged by the complainant police. The Investigating officer has not properly investigated the above said matter. The accused No.3 is having aged father and mother, and they are the resident of H.D. Kote Taluk, Mysuru District, and he is the only bread earning member of his family. Intentionally the complainant police have registered the above case against the accused No.3. The alleged offences are not committed this accused No.3. The complainant police have completed their investigation. There are no eye witnesses and there is no documentary evidence to prove that the accused No.3 involved in the alleged offences.

3. Further it is contended that, the complainant police have registered the above case with false allegations on the instigation of the political persons. Hence, the complaint is not maintainable under law. There are no reasonable grounds to prove the accused No.3 involved in the said crime. The complainant police have filed the present case with the motivation of the political persons only with an intention to

harass the accused No.3. The accused No.3 is coming from respectable family and if he had not discharged in the above crime the reputation of the accused person will be spoiled in the eye of public. There is no allegation made against the accused No.3 in the charge sheet. On these grounds, the accused No.3 is liable to be discharged from the above said offences. Hence, prays to allow the application and discharge the accused No.3 from the present case.

4. On the other hand, the learned APP filed objections to the above application stating that, the complainant police have filed charge sheet against the accused persons. The CW.1 has stated in his first information statement that accused No.3 has assaulted him with wooden club on his back, stomach and all over his body and caused injuries. All the eye witnesses to the incident have also deposed the same thing in their statements given before the Investigating officer. Hence it prima facie discloses that accused No.3 has assaulted CW.1 with wooden club and caused simple injuries, and thereby committed offence punishable U/sec.324 of IPC. After filing charge sheet, this Court has taken cognizance against the accused No.3 for the offences alleged in the charge sheet and case is registered. The accused persons are having every right to defend their case by

leading evidence both oral and documentary evidence on their behalf to disprove the prosecution case. Hence, at this stage if the accused No.3 is discharged from the offences alleged against him, it affects to the whole trial of the case. Hence, prays to dismiss the application.

5. Heard arguments from learned APP and learned counsel for the accused No.3.

6. The point for consideration is -

1. Whether the application U/sec.239 of Cr.PC filed by accused No.3 is deserves to be allowed ?

2. What order ?

7. 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**

**8. POINT NO.1**:- The P.S.I of Saraguru Police has submitted charge sheet against the accused persons for the offences punishable U/sec.323, 324, 504, 506 r/w 34 of IPC.

9. The applicant/accused No.3 has filed this application seeking for discharge of accused No.3 from the alleged offences.

It is stated in the application that accused No.3 is an innocent and law abiding citizen. He has not committed any offence as alleged by the complainant police. The Investigating officer has not properly investigated the above said matter. The accused No.3 is having aged father and mother, and they are the resident of H.D. Kote Taluk, Mysuru District, and he is the only bread earning member of his family. Intentionally the complainant police have registered the above case against the accused No.3. The alleged offences are not attracted this accused No.3. The complainant police have completed their investigation. There are no eye witnesses and there is no documentary evidence to prove that the accused No.3 involved in the alleged offences. Further the complainant police have registered the above case with false allegations on the instigation of the political persons. Hence, the complaint is not maintainable under law. There are no reasonable grounds to prove the accused No.3 involved in the said crime. The complainant police have filed the present case with the motivation of the political persons only with an intention to harass the accused No.3. The accused No.3 is coming from respectable family and if he had not discharged in the above crime the reputation of the accused person will be spoiled in the

eye of public. There is no allegation made against the accused No.3 in the charge sheet.

10. On the other hand the learned APP filed objections stating that, CW.1 has stated in his first information statement that accused No.3 has assaulted him with wooden club on his back, stomach and all over his body and caused injuries. All the eye witnesses to the incident have also deposed the same thing in their statements given before the Investigating officer. Hence it prima facie discloses that accused No.3 has assaulted CW.1 with wooden club and caused simple injuries, and thereby committed offence punishable U/sec.324 of IPC. After filing charge sheet, this Court has taken cognizance against the accused No.3 for the offences alleged in the charge sheet and case is registered. The accused persons are having every right to defend their case by leading evidence both oral and documentary evidence on their behalf to disprove the prosecution case. Hence, at this stage if the accused No.3 is discharged from the offences alleged against him, it affects to the whole trial of the case.

11. On perusal of the charge sheet filed by the PSI of Saraguru police it appears that, accused No.3 has assaulted with a wooden club on the back, stomach and all over the body of

CW.1 and caused simple injuries. Therefore, in the case accused No.3 is required for trial. If the accused No.3 is released on the application, the very trial of the case is defeated at initial stage. The involvement of the person in the crime can only know on the trial by recording evidence from the witnesses. Therefore, the present application filed by the applicant/accused No.3 is deserves to be rejected. Accordingly, I answer Point No.1 in the **Negative.**

12. **POINT NO.2:-** In view of my findings and discussions on Point No.1, I proceed to pass the following -

**ORDER**

The application filed by the applicant/accused No.3 under section 239 of Cr.PC is hereby **dismissed.**

(Dictated to the Stenographer directly on computer, typed by her, the same is corrected, revised, signed and then pronounced in Open Court on **12<sup>th</sup> day of September 2024**).

**(SURESHA S.N.)  
Addl.Civil Judge & JMFC  
Heggadadevanakote.**