

KAMS300006002025



**IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE  
AND JMFC AT HUNSUR**

**Present:** Smt.Anitha, B.A. (Law) L.L.B,  
Prl.Senior Civil Judge & JMFC.,  
Hunsur.

**Dated this the 16<sup>th</sup> day of December, 2025.**

**CC No.241/2025**

Complainant: Hunsur Town Police Station.

- V/s -

- Accused Persons: 1. Murugesh @ Jogi, S/o Late Amavase,  
Aged 45 years, Businessman,  
R/at Near Makalamma Temple,  
V.P.Bore, Hunsur Town.
2. Ravi Kumar, S/o Murugesh @ Jogi,  
Aged 19 years, Businessman,  
R/at Near Makalamma Temple,  
V.P.Bore, Hunsur Town.
3. Pradeepa.M., S/o Muthuswamy,  
Aged 33 years, Labourer,  
R/at V.P.Bore, Hunsur Town.

1.	Provision under which the application is filed	:	Under Section 262 of BNSS
2.	Relief sought for	:	Seeking for discharge of accused No.3
3.	The date on which the application is filed	:	14.10.2025
4.	Number of the application	:	Nil

5.	The date on which the objection is filed by the opponents	:	18.11.2025
6.	The date on which the orders passed on the said application	:	16.12.2025

**ORDERS PASSED ON AN APPLICATION FILED UNDER SECTION 262 of BNSS**

**When the case is posted for charge,** accused No.3 has filed present application under Section 262 of BNSS seeking for his discharge from the case.

2. In the application it is stated that, the complainant police has registered FIR in Crime No.218/2024 for the offences punishable under Section 352, 126(2), 115(2), 118(1) R/w 3(5) of BNS and after investigation the charge-sheet is also filed and in this case came to be registered. Accused No.3 has been falsely implicated in this case at the instance of 1<sup>st</sup> informant and the FIR came to be registered against unknown person and subsequently the charge-sheet came to be filed. In the application the accused has relied upon the decisions like State of Karnataka V/s L.Muniswamy, Imitaz Ahmed V/s State of M.P. (1997 Cri LJ 1884(MP), 11 (2003) DMC 127 (P & H) between Krishan Jeet Singh V/s State of Haryana, 11(2003) DMC 192 (P & H) Sher Singh V/s State of Punjab and also alleged that, there is no specific allegations made out in the complaint against accused No.3. Without proper investigation the police have falsely implicated accused No.3.

3. It is further alleged that, the complainant police has recorded statements of totally 13 witnesses and nowhere the complainant police have collected sufficient material against accused No.3 and he was not at all present at the spot and upon investigation the police have implicated him on the basis of voluntary statement of accused No.1 and 2 and there is no relationship between accused No.3 as well as accused No.1 and 2. The witnesses have been fabricated the story. It is further contended that, the police have not at all investigated the case and there is no prima-facie material to frame charge against accused No.3 and prayed to allow the application and to discharge accused No.3 from this case.

4. On the other-hand the learned APP filed objection contending that, the application is not maintainable under law or on facts. It is also contended that, on 21.01.2024 at about 1.00 p.m, CW1 and CW2 came to the shop of accused No.1 in their Mahindra Jeetho goods vehicle bearing Reg.No.KA-12/C-4567 for purchase of Mat and at that time accused No.1 stated that, the Mat is worth Rs.2,500/- and CW1 offered Rs.2,000/- and thereby accused No.1 threatened CW1 and CW2 and when they were returning to their vehicle accused No.1 thrown a scissor upon them which fallen on the back cabin of the said vehicle. Thereafter, on the same day at about 1.10 p.m. when CW1 and CW2 were moving in their vehicle near Maruthi Rice Mill of K.R.Nagara road accused No.1 to 3 in furtherance of common intention wrongfully restrained the vehicle of CW1

and CW2 and accused No.3 assaulted CW1 with the scissor and thereby caused the injuries. It is further contended that, the accused persons have followed CW1 and CW2 in two bikes and committed the crime. In the investigation it is clearly come out that, accused No.3 has committed the offences. Furthermore, the offences are non-bailable in nature and the trial needs to be commenced. At this stage accused No.3 is not entitled for any discharge. Further, learned APP also relied decisions of Hon'ble Supreme Court of India reported in (2014).3 Supreme Court Cases (Cri) 529, 2015(2) SCC (Crimes) page 265, 2008(2) Supreme Court 76. On the basis of above contentions learned APP prayed to dismiss the application with costs.

5. Thereafter, heard arguments addressed by learned counsel for accused No.3 and learned APP and perused the case papers. After hearing the arguments and on perusal of the case papers, the points that arise for consideration are as hereunder:

**POINTS**

1. Whether accused No.3 has made out sufficient grounds to discharge him from this case?
  2. What order?
6. The findings on the above points are as hereunder:
- Point No.1: In the Negative.  
Point No.2: As per the final order  
for the following:

**REASONS**

7. **Point No.1:** The PSI of HTPS has submitted the charge-sheet against accused No.1 to 3 for the offences punishable under Section 352, 126(2), 115(2), 118(1) R/w 3(5) of BNS. It is the specific case of the prosecution that, on 21.09.2024 at about 1.00 p.m. CW1 Nagendra and CW2 Ramesh have come to the shop of accused No.1 situated opposite K.E.B.Office, Bypass road, Hunsur Town in a Mahindra Jeetho goods vehicle bearing Reg.No.KA-12/C-4567 for the purpose of purchasing the Mat. At that time accused No.1 stated that, Mat is worth Rs.2,500/- and CW1 offered Rs.2,000/- and at that time accused No.1 scolded them and refused to sell the same and when CW1 and CW2 were returning to their vehicle accused No.1 thrown one scissor towards them and it was fallen to the backside cabin of the vehicle and CW1 and CW2 left the place with their vehicle and when they were moving near Maruthi Rice Mill at about 1.10 p.m. accused No.1 to 3 in furtherance of common intention came in TVS Axis motor vehicle bearing Reg.No.KA-01/ET-0267 and KA-45/EA-7159 and wrongfully restrained CW1 and CW2 from moving further and started quarrel with CW1 and CW2, abused them in filthy language and accused No.3 has taken the same scissor and hit CW1 due to which he sustained injuries. The incident had taken place on 21.09.2024 and the complaint came to be lodged on the same day at about 4.50 p.m. by CW1 Nagendra.

8. Upon registering the complaint in Crime No.218/2024 CW13 Zameer Ahmed has taken up the investigation. He has visited the spot and drawn the mahazar and also seized the vehicles. I.O recorded the statement of witnesses and received the wound certificate of the injured and upon completion of the investigation he has submitted the charge-sheet against accused No.1 to 3 for the aforesaid offences. Upon filing of the charge-sheet this court took cognizance for the aforesaid offences and issued summons to accused No.1 to 3. In pursuance of service of summons accused No.1 to 3 appeared before the court and released on bail. Thereafter, when the case is posted for hearing before charge, the learned counsel for the accused persons stated charge may be framed. In spite of the said submission when the case is posted for framing charge, this application came to be filed by accused No.3. As per accused No.3 there are no allegations made against him in the complaint, in the statement of the witnesses. At one point of time it is alleged that, on the basis of voluntary statements of accused No.1 and 2, accused No.3 has been implicated in this case. It is very important to note that, there is no voluntary statement recorded by the IO. It is the definite case of the prosecution that, accused No.1 to 3 in furtherance of common intention followed CW1 and CW2 in the motorcycles and they have wrongfully restrained CW1 and CW2 and abused them in filthy language and accused No.3 assaulted CW1 with a scissor and

in the complaint there is specific allegations made against accused No.3. There are clear averments about the participation of accused No.3 in the said crime.

9. The complainant specifically stated that, three persons have assaulted them. Admittedly, in the complaint the names of the accused persons is not forthcoming. However, CW1 has given further statement wherein he has clearly narrated about presence of accused No.3. Even CW2 in his statement has specifically stated about involvement of accused No.1 to 3. Further, it is very important to note that, one witness i.e., CW7 Ramesh is the owner of one motorcycle bearing Reg.No.KA-01/ET-0267 which was being ridden by accused No.3 at the time of investigation. CW7 in his statement categorically stated that, he had handed over his vehicle to accused No.3 who was working under accused No.1. Therefore, the witnesses have specifically stated about the presence of accused No.3. Further, it is very important to note that, in the application accused No.3 has put-forth the defence about plea of alibi. It is very important to note that, the plea of alibi needs to be determined at the time of trial.

10. Now it is necessary to go through the decisions relied upon by both the parties. The learned counsel for the accused persons has relied upon the decisions which are as hereunder:

**(1977) 2 SCC 699**

Between: State of Karnataka Vs L.Muniswamy

Wherein Hon'ble Supreme Court of India has held as hereunder:

*At the stage of framing the charge the court has to apply its mind to the question whether or not there is any ground for presuming the commission of the offence by the accused, as framing of charge affects the person's liberty substantially, need for proper consideration of material warranting such order was emphasized.*

**1996 SCC OnLine MP 301**

Imtiaz Ahmed Vs State of Madhya Pradesh

Wherein Hon'ble High Court of Madhya Pradesh has held as hereunder:

*An accused can be made to face trial on particular charge/charges only on the basis of the material available in the charge-sheet/complaint against that accused and not on the material available against his co-accused. It is, therefore, always incumbent on the trial Court, while considering the framing of charges against the accused persons in a trial, involving more than one accused, to evaluate the material, available against each and every accused, individually for ascertaining the culpability of each and every accused and then frame charge/charges against each and every accused accordingly*

**2002 SCC OnLine P&H 842****Krishan Jeet Singh Vs State of Haryana.**

Wherein Hon'ble High Court of Haryana has held as hereunder:

*There is no specific allegation in the complaint regarding the entrustment of dowry articles as to whom the articles were given. When there is no specific allegation, the charge cannot prove.*

11. On the other-hand learned APP also relied upon the decisions reported in:

**(2014).3 Supreme Court Cases (Cri) 529**

Between: State of Tamilnadu V/s N.Suresh Rajan others.

Wherein Hon'ble Supreme Court of India has held as hereunder:

*Criminal Procedure code. 1973 – Section 227, 228, 239 and 240 – framing of chargers / discharge of accused – exercise of jurisdiction / power by court / scope of / no mini trial is contemplated at stage of considering discharge application / court to proceed with assumption that materials brought on record by prosecution are true / only probative value of materials has to be gone into to see if there is a prima facie case for proceeding against accused / court is not expected to go deep into the matter and hold that materials would not warrant a conviction / if court. On basis of materials things that accused prima facie might have committed offence it can frame the charge.*

*Criminal Procedure Code 1973 – Section 227, 228 and 239 and 245 – provisions relating to discharge of accused – difference is language employed in Sections 227, 239, 244 and 245 provisions relating to discharge of accused / difference in language employed in Sections 227, 239 and 245/ effect / common approach to the adopted by court /held not withstanding differences in provisions relating to discharge under Sections 227,230 and 245 and whichever provisions may be applicable, courted at this stage of considering discharge of accused is only required to see if there is prima facie case for proceeding against accused*

**2015(2) SCC (Crimes) page 265**

**Between: Sonu Gupta V/s Deepika Gupta**

Wherein Hon'ble Supreme Court of India has held as hereunder:

*Discharge / even when there are materials raising strong suspicious against on accused, court will be justified in rejecting there prayer for discharge and in granting an opportunity to prosecution to bring on record entire evidence in accordance with law so that case of both sides may be considered appropriately on conclusion of trail (At page 266).*

*At the Stage of forming of charge on accused may seek discharge if he are she can show that the materials absolutely insufficient for framing the charge against that accused. But such exercise is required only at a later stage and not at the stage of taking cognizance and summoning the accused on the basis of prima facie case, even at the stage of framing of charge a sufficiency of materials for the purpose of*

*conviction is not the requirement and a prayer for discharge can be allowed only if the court finds that the materials are wholly insufficient for the purpose of trial (Para 9).*

*At the stage of cognizance and summoning the magistrate is required to apply is judicial mind only with the view to get cognizance of the offence, at this stage magistrate is not required to considered consider the defence version are materials are arguments nor if the required to evaluated the merits of materials are evidence of complainant.*

12. In the present case on hand the complaint averments as well as the statement of the witnesses clearly makes out a prima-facie case about the involvement of accused No.3 in the commission of offence. As already stated above the plea of alibi is to be proved at the time of trial. Further learned counsel for the accused persons on the earlier occasion stated that the charge may be framed. As such the principles laid down in the aforesaid decisions relied upon by the prosecution is aptly applicable to the facts of the case on hand. Further the principles laid down in the decisions relied upon by learned counsel for the accused No.3 is not aptly applicable to the facts of the case on hand. On the basis of the above discussions this court comes to the conclusion that, the prosecution has made out sufficient grounds to proceed against accused No.3. At this juncture the prosecution has made out sufficient grounds to frame charge against accused No.3 and he has failed to show reasons for his discharge from the case. Accordingly, Point No.1 is answered in the Negative.

13. **Point No.2:** In view of the reasons discussed above, this court proceeds to pass the following:

**ORDER**

The application filed by accused No.3 under Section 262 of BNSS is hereby rejected.

(Dictated to the Stenographer directly on the computer and same is corrected and pronounced by me in the open court on this the 16<sup>th</sup> day of December, 2025.)

**(Anitha)**

Prl. Senior Civil Judge and JMFC.,  
Hunsur.