

KARN320006302010



**IN THE COURT OF THE I ADDL., CIVIL JUDGE AND JMFC,
AT: KANAKAPURA**

Present : Smt. Lathashree B.V.
B.A., LL.B.,
I Addl., C.J and J.M.F.C, Kanakpura.

Dated this the 30th day of May 2026

P.C.R 58/2010

Sri. Jagadish.H.M.Complainant.

V/s

Sri. Vajra and othersAccused.

1	Provision under which the application is filed	:	Under Section 239 of Cr.P.C.
2	Relief Sought for	:	Discharge of the accused
3	The date on which the application is filed	:	24.12.2025
4	Number of the application	:	One
5	The date on which the objection is filed by APP	:	26.03.2026
6	The date on which the order was passed on the said application	:	30.05.2026

Sd/-
(Lathashree B.V.)
I Addl. Civil Judge & JMFC,
Kanakapura.

ORDER ON APPLICATION FILED U/SEC. 239 OF CR.P.C.
BY THE ACCUSED NO.1 to 3 and 6

The advocate for accused No.1 to 3 and 6 has filed an application Under Sec. 239 of Cr.P.C. on behalf of the said accused persons seeking discharge of the said accused persons from the present matter.

2. On due perusal of the application, it has been submitted by the accused persons that, the complainant who is the forest official authority has filed the present complaint by alleging that, as on 06.10.2010 at about 08.00 P.M., while they were on night patrol near Basavanabetta Reserve Forest, the noticed a battery light and intercepted a maruthi omni vehicle and further that, they found accused No.1 to 6 in the said vehicle along with inspection battery, knife and other articles which was later seized. It is also contended that, an alleged country made gun wrapped in plastic is found at a distance from the place where the vehicle was parked. However, it is clear that, the same is not from the possession of accused or inside the vehicle and on the receipt of the complaint this court registered a PCR No.58/2010 for the offence punishable U/s 2(16), 9, 39(d), 50 and 51 of Wile Life Protection Act 1972 and Sec.24(j) of the Karnataka Forest Act 1963. However, these accused persons are innocent one who were the tourist proceeding to Muthathi temple which is a public pilgrimage center and at the time of inspection itself the accused persons have clearly informed the officials that they were going to the temple and they are not carrying any weapon and the alleged gun is not recovered from the accused and that there are no criminal antecedents. Hence, a false complaint is lodged

against the accused person. Hence, on the said grounds they seek discharge by specifically stating that no weapons were in possession of the accused persons and no wild animal dead or alive and no skin, meat, tusk or trophy has been recovered. Hence, the alleged offences does not go to attract against the accused persons and also that, the present case is pending since 2010 and no trial has commenced as the final report is not submitted. Hence, it is infringing the fundamental right of the accused persons. Hence, the proceeding itself is not sustainable and there are no prima-facie materials against the accused persons. Hence, prays to allow the application.

3. In contra, the learned A.P.P filed objections for the same and retreated the averments of the said complaint and the materials therein and it is submitted that, in the present matter a private complaint has been registered by the concerned authority and there are prima-facie materials against the accused persons and at this stage the application filed by the accused persons cannot be considered and the said contention is a matter of trial. Hence, prays to reject the same.

4. Vehement arguments were made on both the sides.

5. The points for consideration are as under:

- 1) Whether the Application filed Under Section 239 of Cr.P.C. by the Accused No.1 to 3 and 6 deserves to be allowed?
- 2) If, so what order?

6. This Court findings on the above points are as under:

Point No.1: In the **Negative**,
Point No.2: As per final order,
for the following:

REASONS

7. **Point No.1**:- On due perusal of the application filed by the Accused No.1 to 3 and 6 as well as the objections filed by the learned A.P.P. with regard to the application filed U/Sec.239 of Criminal Procedure of Code, this court is of the opinion that, it is just and necessary to peruse the provision Under Sec.239 of Criminal Procedure of Code which reads as under:

“Sec.239. When accused shall be discharged.-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”

8. Wherein, on due perusal of the same, it is very much clear that, there are certain ingredients that is to be considered when an application is filed by the accused person seeking discharge the very essential ingredients is that, the grounds against the said accused is to be baseless and there should not be any evidence present against the said accused and if the court considers that, there is no prima facie case against the accused and if the accused through his application fulfills the said ingredients then the accused shall be discharged.

9. It is further to be noted that, the discharge application is the remedy that is granted to the person who has been maliciously charged and if the allegations which have been made against him

are false, the Cr.P.C court provides provision for filing a discharge application and if the evidence given before the court, is not sufficient to satisfy the offence and in the absence of any prima facie case against him he is entitled to be discharged.

10. It is also to be seen that, when the wider interpretation of Sec. 239 of Cr.P.C is looked into, the significant value of the materials on record, cannot be looked in to at the stage of framing of a charge by the magistrate and the materials brought on record by the prosecution against the accused have to be trusted as true at that stage and it is to be seen that, the court cannot initiate in depth inquiry into the evidence at the initial stage itself. This being the context of Sec. 239 of Cr.P.C,

11. At this stage before proceeding further, a essential factor which needs to be considered is that, in the present matter the final report or charge sheet against the accused is yet to be filed and the stage is still reflecting to be in PCR. However, Sec.239 of Cr.P.C., comes for consideration when either the police report and the documents sent with it U/s 173 is filed before the court and cognizance is taken for the alleged offences shown in the said final report by the concerned I.O against the accused persons. Further, it is to be noted that, once the charge sheet is filed cognizance is taken and summons is issued to the accused and when the accused appears before the court and the charge sheet materials are served upon him he would be given an opportunity to hear before framing of charges and at that context if the court finds that, there is no material to proceed with the case against the accused persons then they may be discharged. However, in the present matter as already narrated the final report itself is not submitted to the court. Hence, when such being the case, the very application of the accused persons at this stage is itself not maintainable and that apart if at

all the accused is discussing with regard to the very contention of the investigation process he would be entitled for the said right when the cognizance is taken against him for the said alleged offences by issuing summons and not at this premature stage and regarding the aspect of limitation the accused is at all liberty to question the same through appropriate procedure under law. Hence, the grounds of seeking discharge based upon the delay in filing the final report at the stage of PCR cannot be considered. Hence, it goes to show that, the contention that has been raised by the accused persons at this stage cannot be considered but they do have liberty to question the same when the stage is appropriate regarding the said aspect as per due procedure laid down and contemplate under Cr.P.C. Hence, with the said observation, it goes to show that, the application at this stage is not maintainable. Hence, in view of the above made observations and discussion, this court answer the **Point No.1 in the “Negative”**.

12. **Point No.2:-** For the aforesaid reasons, this Court proceed to pass the following:

ORDER

The application filed by the accused
No.1 to 3 and 6 under Sec. 239 of Cr.P.C.
stands rejected.

(Dictated to the stenographer directly on computer, corrected by me and then pronounced in the open court on this day 30.05.2026)

Sd/-
(Smt. Lathashree B.V)
JMFC-I, Kanakapura.