



**IN THE COURT OF V ADDITIONAL DISTRICT AND SESSIONS
JUDGE, TUMKUR (SITTING AT TIPTUR).**

Dated this 27th day of June, 2026

Present:

**SRI. HEMANTH KUMAR. C.R. B.A.L., L.L.B.,
V Addl. District and Sessions Judge
Tumkur (Sitting at Tiptur)**

Crl.R.P.No. 10027/2024

Petitioner/s : K.B. Mohan Kumar
S/o Beeralingegowda
Aged about 54 years,
2nd Division Contractor,
R/o : Kadehemmage Village,
Kikkeri Hobli,
K.R. Pete Taluk,
Mandya District.

(Accused in the trial Court in
CC No.1546/2016)

(By: Sri.B.G.K., Advocate)

V/s

Respondent/s : State by
Nonavinakere Police
Tiptur Taluk.

(Complainant in the trial court)

(By: Public Prosecutor)

Order U/sec 397 (1) of Cr.P.C.,

The petitioner has filed the petition U/Sec.397(1) of Cr.P.C.,
seeking to set side of the order passed by the Addl. Civil Judge and



JMFC., Tiptur in CC No.1546/2016 dated 09.09.2024, dismissing the application filed U/Sec.239 of Cr.P.C.

2) The petitioner is the accused and respondent is complainant before the trial Court. Parties are referred to as per their rank before the trial Court to avoid confusion.

3) The facts of the case are as follows:

The complaint Ex-President, Jnanapoorna, Hunaseghatta Panchayathi, Nonavinakere Hobli, Tiptur Taluk, has filed PCR No.196/2014 on the file of the Addl. Civil Judge and JMFC., Tiptur on 15.04.2014, alleging that the petitioner/accused is a contractor for the work of "Swachha Grama" of Hunaseghatta Grama Panchayathi, Tiptur Taluk, for a sum of Rs.16,04,590/- and that he had executed an agreement dated 06.01.2009 in favour of the Panchayathi to complete the work on or before 05.04.2009. The period for completion of the work was extended amicably on 02.04.2009 and that a portion of the amount was paid to the accused through cheque. The petitioner has not completed the work despite receiving the amount and has threatened the complainant. The trial court referred the PCR to the respondent police, who has registered case for the offences punishable U/Sec.417, 420, 418 and 506 of IPC. After investigation the respondent police filed a charge sheet against the petitioner. Subsequently, the respondent police filed the charge sheet and the case was registered as CC No.1546/2016 on 09.09.2024. The petitioner filed an application U/Sec.239 of Cr.P.C., seeking



discharge, which came to be dismissed. Hence, this revision petition.

4) The petitioner/accused being aggrieved by the same has preferred this revision petition on the following among other grounds:

The petitioner/accused has contended that the dismissal of the application filed U/Sec.239 of Cr.P.C., by the learned trial court is not in accordance with law and is opposed to law and facts, and is contrary to the material available on record. The petitioner/accused has also contended that the trial court has erred in dismissing the application without properly appreciating the documentary evidence, particularly when the complainant, Jnanapoorna, is neither a member nor the president of Hunaseghatta Grama Panchayathi, Tiptur taluk and therefore has no locus standi to file the complaint against the petitioner. The petitioner/accused further contended that the trial court has failed to appreciate the grounds urged for discharge, namely that the complaint had no authority or authorization from the Panchayathi to file the complaint in her individual capacity, especially when there exists a PDO and no Panchayathi resolution authorizing such complaint. The petitioner/accused further contended that the order dismissing the discharge application is liable to be interfered with by this court, as the trial court failed consider the clearance certificate/sanctification letter dated 16.08.2009 issued in favour of the petitioner and the letter written by the complainant to the CEO, Zilla Panchayath, Tumkur dated 20.12.2021, which clearly



demonstrate that the petitioner has not committed the alleged offences. The petitioner/accused further contended that the impugned order is contrary to the principles of natural justice, as the learned trial court failed to consider the judgments relied upon by the petitioner, namely AIR 2015 Priya Srivastava and others V/s State of U.P. and 2018 KCCR (KAR) Page 66 and therefore, the impugned order is liable to be set aside. The petitioner/accused further contended that the learned trial court has failed to appreciate that the present PCR has been filed only as a counterblast to PCR No.13/2009 dated 16.07.2009 in CC No.05/2010 filed by the petitioner against the complainant on the file of K.R.Pete Court, which was subsequently renumbered as CC No.138/2016 on the file of the Civil Judge, Channarayana. The petitioner/accused further contended that the trial court has erred in dismissing the discharge application when there are no prima-facie materials placed by the prosecution and no sufficient legal evidence to presume that the petitioner is guilty so as to frame charges against him. The petitioner/accused also further contended that the impugned order has been passed on mere surmises and conjectures without considering the documents produced by the petitioner in their proper perspective. The petitioner/accused further contended that the dismissal of the discharge application by the learned trial court is illegal, improper, and incorrect, and has resulted in grave miscarriage of justice. Hence, prays to allow the petition.



5) Heard the arguments of counsel for petitioner and Learned Public Prosecutor on merits, the points that arise for my consideration are that:

1. Whether the orders of the trial Court is illegal, improper, incorrect and is opposed to law and probabilities of the case and same is liable to be set aside in limine?
2. Whether the impugned order of the trial Court calls for any interference at the hands of this Court?
3. What order?

My answers to the above points are point No.1 and point No.2 in **Negative**, point No.3 as per the final order for the following:

REASONS

6) **POINT No.1 & 2** : The petitioner counsel has addressed the arguments contending that the petitioner has preferred this Revision Petition on dismissal of application U/Sec.239 of Cr.P.C. filed by the petitioner before trial Court. The petitioner has contended that the charge sheet filed and the documents available on record are contrary and opposed to law and the trial Court has not right in dismissing the application filed U/Sec.239 of Cr.P.C., without appreciating the documentary evidence in proper manner. The petitioner has contended that the complainant Jnanapoorna is not at all the member or president of the Hunaseghatta Grama



Panchayath. As such, locus standi to file the complaint against the petitioner. The petitioner counsel has contended that the trial court has not right in dismissing the discharge application without appreciating the grounds urged in the application that the complainant has not locus standi to file the complaint individually without any authorization from the panchayath when there is PDO and there is no resolution to that effect. The petitioner counsel has also contended that the trial Court has considered the documentary evidence clearance certificate/satisfaction letter dated 16.08.2009 issued in favour of the petitioner and the complainant has also written letter to the CEO Zilla Panchayath, Tumkur Dated 20.12.2021 which goes to show that the petitioner has not committed the alleged offences. The petitioner counsel has also contended that the trial Court has is not right in dismissing the discharge application of the petitioner when the alleged PCR has been filed only to counter blast to the PCR 13/2009 dated 16.07.2009, CC No.5/2010 filed by this petitioner against the complainant on the file of KR Pete Court and the same is is renumbered as 138/2016 on the file of the Civil Judge Channarayapatana. The petitioner counsel has also contended that there is no prima-facie materials placed by the prosecution and there is no sufficient legal evidence to presume that the petitioner is guilty and to frame charge. Hence, the petitioner prays to allow Revision Petition and discharge the accused.

7) The learned Public Prosecutor has addressed the arguments contending that the complainant having filed PCR



before the trial Court in PCR No.195/2015 and the said complaint having been referred for investigation U/Sec.156(3) of Cr.P.C., the jurisdictional police Nonavinakere PSI has registered case in Crime No.72/2016 for the offences punishable U/Sec.417, 420, 418 and 506 of IPC and the police having investigated the case have filed charge sheet against the accused persons for the offences punishable U/Sec.417, 420, 418 and 506 of IPC. The learned Public Prosecutor has also contended that the application filed by the petitioner U/Sec.239 of Cr.P.C. is not maintainable and same is liable to be dismissed. The learned Public Prosecutor has also contended that the complainant police having investigated case, have filed charge sheet against the accused and also sufficient materials and documents are filed along with the charge sheet which makes out prima-facie case against the accused. The learned Public Prosecutor has also contended that the statements of the witnesses and testimonies of the witnesses makes out prima-facie case against the accused. As such, there is sufficient material to frame charge against the accused persons for the alleged offences. The learned Public Prosecutor has also contended that the averments made in the application are far from truth it requires trial and so also the Court cannot look into the documents produced by the accused at the time of framing charge except the charge sheet materials filed by the prosecution. The learned Public Prosecutor has also contended that the Revision petition filed by the petitioner is not maintainable. Hence, prays to dismiss the petition.



8) On perusal of the records, it is noticed that the complainant Jnanapoorna has filed the complaint against the accused U/Sec.200 of Cr.P.C., and the said complaint having been private complaint filed before jurisdictional Magistrate, the said complaint was referred to investigation U/Sec.156(3) of Cr.P.C., and the complainant police on receipt of the said complaint have registered FIR in crime No.72/2016 and the investigating officer having investigated the case have filed charge against the accused for the offences punishable U/Sec.417, 420, 418 and 506 of IPC, in CC No.1546/2016. The accused has filed an application U/Sec.239 of Cr.P.C. to discharge the accused on the alleged offences. The accused has contended that the Grama Panchayath has issued the letter of Clearance Certificate dated 20.12.2021 with respect to completion of work and there is no authorization ship of the complainant under Grama Panchayath to file the complaint and the accused has also contended that the present accused having instituted the case against the complainant U/Sec.138 of NI Act to counter blast the said complaint, the present complaint has been filed and the accused has also contended that there is consistence in the statements of the witnesses.

9) On perusal of the records, it is noticed that the petitioner has filed an application U/Sec.239 of Cr.P.C., before the trial Court and the trial Court having heard the petitioner and learned APP, the trial court has dismissed the application holding that the statements of witnesses recorded during investigation clearly shows overtact of accused and also has held that while considering



the discharge application, only prosecution papers has to be looked into and hence, holding the same, the trial court has dismissed the present application. Being aggrieved by the same, the petitioner has challenged the same before this Court in Revision Petition.

10) On perusal of the records, it is noticed that the complainant has filed private complaint before the Jurisdictional Magistrate and the same having been referred for investigation and having investigation, the Nonavinakere Police have filed charge sheet in CC No.1546/2016 for the offences punishable U/Sec.417, 420, 418 and 506 of IPC. The police having filed charge sheet, along with statements of witnesses and other documents to substantiate that the allegations against the accused with respect to the alleged offences. The petitioner has now contended that the Hunaseghatta Grama Panchayath has issued letter dated 20.12.2021, with respect to completion of work of Grama panchayath and letter clearance certificate. As such, the accused has contended that he having completed the work and the Grama Panchayath having issued clearance certificate, the offence alleged against the petitioner is not made out as he has already completed the work.

11) On perusal of the records, it is noticed that the trial court to frame charge against the accused has to consider only charge sheet material filed by the prosecution against the accused. The accused at this stage of framing charge cannot produce or rely on any documents and the court cannot consider the said



document produced by the accused at the time of framing charge, the same is substantiated by the judgment of the **Hon'ble Supreme Court of India in State of Orissa V/s Debendranath Padhi reported in (2005) 1 SCC 568**. In the present case, the document produced by the accused, the clearance certificate issued by Grama Panchayath Hunaseghatta cannot be considered at the time of framing charge. The trial Court has to consider the materials filed along with the charge sheet to frame charge, when there is prima-facie material produced by the prosecution to frame charge against the accused for the alleged offences. The inconsistency in the statement of witnesses and illegality or irregularity in the document placed by the prosecution cannot be the ground for discharge. The trial Court has to consider the said document to frame charge on the available materials on record along with charge sheet. The trial Court having held that the prosecution papers are having sufficient materials to frame charge against the accused for the alleged offences. The other grounds raised by the petitioner with respect to the locus standi to file the complaint and also with respect to taking cognizance is out of the purview of the application under section 239 of Cr.P.C. In view of the same, the petitioner has not made out sufficient grounds to allow the Revision Petition as the trial Court cannot be looked into documents produced by the accused at the time of framing charge. Hence, I answer **point No.1 and point No.2 in Negative**.



12) **POINT No.3**: For the reasons discussed above, I proceed to pass the following:

ORDER

This Criminal Revision Petition filed by the petitioner/accused U/Sec.397(1) of Cr.P.C., is hereby dismissed.

The order passed by the trial Court in C.C. No.1546/2016 (PCR No.196/2014) dated 09.09.2024 on the file of the Addl. Civil Judge & J.M.F.C., Tiptur dismissing the discharge application filed U/Sec.239 of Cr.P.C., is hereby confirmed.

Send back the copy of this order to the trial court forthwith.

(Dictated to the Stenographer, transcribed by her, script thereof revised, corrected, signed and then pronounced by me in the open Court on this the 27th day of June, 2026).

Sd/-

(Hemanth Kumar C.R.)

V Addl. District & Sessions Judge
Tumkur (Sitting at Tiptur)