

ORDERS ON APPLICATION
U/S 239 OF Cr. P. C.

C. C. No. 279/2024

KAUK910006152024



IN THE COURT OF THE CIVIL JUDGE & J.M.F.C.
AT SIDDAPUR

Dated this 27th day of April, 2026.

Present : Sri HARISHKUMAR. M, B.Com. LL.B.
Civil Judge and JMFC, Siddapur

C.C.NO. 279/2024

Complainant:

State by Siddapur Police Station,
Siddapur Taluk,
(By Sri. A.P.P., Siddapur)

V/s

Accused/s:

1. Ganapati S/o Vishweshwara Bhat,
Aged about 54 years,
Occ: Agriculturist,
R/at Hostota,
Siddapur Taluk,
2. Akshay Gajanan Bhat,
Aged about 28 years,
Occ: Business,
R/at Hostoa,
Siddapur Taluk,
(Rep. by Sri. R.S.H., Advocate)

**ORDERS ON APPLICATION UNDER SECTION 239 OF CODE
OF CRIMINAL PROCEDURE FILED BY THE ACCUSED/S:**

1. This is an application filed by accused No.1 & 2 under Section 239 of Cr.P.C. seeking discharge them in the present case.



2. It is stated in the application that, the complainant herein falsely initiated a proceedings as against the accused persons for the offences punishable under Section 419 & 420 R/w Section 34 of I.P.C., and the accused No.1 has collective right over the land bearing Sy.No.210 and 212 of Harihara Village and accused No.1 has relinquished his right in favour of accused No.2 and he has not relinquished any other rights as alleged in the complaint.
3. It is further stated that, the accused persons have not committed any offences as alleged in the complaint and accused No.1 has got right over the said properties as per MR.No.1084 and the said mutation has not been cancelled.
4. It is further stated that, the complainant and other witnesses have admitted the collective right of the accused No.1. Hence, the execution of relinquishment deed does not amounts to criminal offence, hence the complainant police have investigated the case based on the wrong information given by the complainant. Moreover, the OS.No.23/2023 is pending before this Court in respect of said properties, hence, the dispute between the parties is purely in civil nature. On these grounds the accused No.1 and 2 herein prays to discharge them in the present case.
5. Per contra, the learned APP has resisted this application contending that, the application filed by the accused



persons is not maintainable. One Sri. Ganapati Vishweshwar Bhat is the original right holder of land bearing Sy.No.210 and 212 and he has three sons. The third son name is Vishweshwar Ganapati Bhat and the accused No.1 name is Ganapati Vishweshwar Bhat. The Accused herein misused the said name and he has executed relinquishment deed dated 21.10.2022.

6. The prosecution further contended that, the accused No.1 has no right over the said properties and he has given false documents before the Sub-Registrar, Siddapur and the RRT No.13/2013 has been cancelled by the Tahsildar, Siddapur vide order dated 19.07.2023 and the accused No.1 has not preferred any appeal on the said order.
7. The prosecution further contended that, the accused No.1 would have been produced the relevant documents regarding collective right over the said properties, but he failed to do the same. As per the MR No.1084 there was a partition between deceased Ganapati Vishweshwar Bhat and his brother's sons by name Sri. Narayan Manjunath Bhat and the right has been vested with the Narayan Manjunath Bhat, in respect of Sy.No.210 and 212. Hence, the complainant has right over the said property, without partition the accused No.1 has executed relinquishment deed in favour of accused No.2. Hence, it is clear that the accused No.1 and 2 have committed the alleged offences. On



these grounds the learned APP herein prays to dismiss the discharge application.

8. Heard both sides.
9. The following points arise for consideration of this court:

- 1. Whether the alleged offences against accused persons are groundless and they are entitle to be discharged?**
- 2. What order?**

10. Findings of this court on these points is as follows:

Point No.1 : - In the Negative.

Point No.2 :- As per the final order for the following:

REASONS

11. **Point No.1:** It is the case of the prosecution in brief that, the land bearing Sy.No.210 and 212 of Harihara Village is standing in the name of father of the plaintiff till date, it has not been changed the accused No.1's name is Vishweshwar Ganapati Bhat and it is the name of father of the complainant, by taking undue advantage the accused No.1 has given false documents in the Sub-Registrar, Siddapur and he has relinquished the right in favour of accused No.2 in respect of said properties and he has cheated by way of personation. Accordingly, the complainant herein lodged complaint before the Siddapur Police Station.
12. Based on the said complaint, the FIR has been registered in Crime No.69/2023 for the offences punishable U/Section



419, 420 and 465 R/w Section 34 of IPC. Thereafter, the IO has investigated the case and filed charge sheet against the accused No.1 and 2 for the offences punishable U/Section 419 and 420 R/w Section 34 of IPC.

13. Thereafter, when the matter has been posted for HBC, the accused No.1 and 2 herein filed an application U/Section 239 of Cr.P.C seeking to discharge them in the present case based on the ground that, the accused No.1 has collective right over the land bearing Sy.No.210 and 212 of Harihara Village and accused No.1 has relinquished his right in favour of accused No.2 and he has not relinquished any other rights as alleged in the complaint. Hence they have not committed any offences as alleged in the complaint and accused No.1 has got right over the said properties as per MR.No.1084 and the said mutation has not been cancelled. Hence, the execution of relinquishment deed does not amounts to criminal offence, hence the complainant police have investigated the case based on the wrong information given by the complainant. The OS.No.23/2023 is pending before this Court in respect of said properties, hence, the dispute between the parties is purely in civil nature, hence they prays to discharge them in the present case.
14. On the other hand, the learned APP has resisted this application contending that, one Sri. Ganapati Vishweshwar Bhat is the original right holder of land bearing Sy.No.210



and 212 and he has three sons. The third son name is Vishweshwar Ganapati Bhat and the accused No.1 name is Ganapati Vishweshwar Bhat. The Accused herein misused the said name and he has executed relinquishment deed dated 21.10.2022. The accused No.1 has no right over the said properties and he has given false documents before the Sub-Registrar, Siddapur and the RRT No.13/2013 has been cancelled by the Tahsildar, Siddapur vide order dated 19.07.2023 and the accused No.1 has not preferred any appeal on the said order. As per the MR No.1084 there was a partition between deceased Ganapati Vishweshwar Bhat and his brother's sons by name Sri. Narayan Manjunath Bhat and the right has been vested with the Narayan Manjunath Bhat, in respect of Sy.No.210 and 212. Hence, the complainant has right over the said property, without partition the accused No.1 has executed relinquishment deed in favour of accused No.2. Hence, it is clear that the accused No.1 and 2 have committed the alleged offences and prays to dismiss the discharge application.

15. The learned advocate for accused addressed his arguments that, accused No.1 and 2 are falsely implicated in this case and they are innocent of the offences alleged against them. The material on record is not sufficient to frame charge against them. Accused No.1 and 2 are nowhere connected to the alleged offences. There are no sufficient grounds to



believe that they have involved in the alleged offences and therefore they are entitled for discharge.

16. On the contrary the prosecution contends that there are sufficient materials on record to proceed against the accused persons. The involvement of the said accused persons would only come to light after conclusion of the trial. Hence the accused persons are not entitled for discharge.
17. I have carefully considered the entire materials on record. It is trite that, the Magistrate has to discharge the accused if upon the consideration of documents and examination of the accused, if any, he thinks necessary and after giving an opportunity to the prosecution and the accused being heard, they consider that the charge against the accused is groundless. If on the consideration of the documents and after the examination of the accused and after hearing the prosecution and the defence, the Magistrate is of opinion that, there is a ground for presuming that the accused has committed an offence alleged against him, the magistrate shall frame charge against the accused in respect of the alleged offences.
18. At this stage the only consideration is whether the charge alleged against the accused is groundless or otherwise. On careful scrutiny of the material placed on record, this court is of the view that the charge alleged against the accused



cannot be said to be groundless. The involvement of the accused persons in the alleged crime or his innocence would only come to light after conclusion of the trial. On careful inspection of the records, the RRT No.13/2013 has been cancelled by the Tahsildar, Siddapur vide order dated 19.07.2023. As per the MR No.1084 there was a partition between deceased Ganapati Vishweshwar Bhat and his brother's sons by name Sri. Narayan Manjunath Bhat in respect of Sy.No.210 and 212.

19. Admittedly, the relinquishment deed dated 21.10.2022 has been executed by the accused No.1 and others in favour of accused No.2 and they have relinquished their right over the said property. The said fact has been admitted by the accused No.1. Here the question is whether the accused persons have committed an alleged offences as alleged in the complaint. Moreover, there are several transaction has been taken place in respect of the said properties. Hence, there are sufficient materials on record to proceed against the accused to frame the charge.
20. At this stage it is to be noted that, the court has to hear the prosecution and to take all evidence on its behalf. As already stated above, the present proceedings needs detail trial, on careful perusal of the documents there are sufficient grounds to proceed against the accused persons. Therefore this Court is of the view that the application filed



for the accused No. 1 and 2 seeking discharge is devoid of merits. Hence, the application deserves to be dismissed. Hence, this court answers point No.1 in the negative.

21. **Point No.2**: For the reasons stated above, this court proceed to pass the following:

O R D E R

**The application filed by accused No.
1 and 2 under Section 239 of Criminal
Procedure Code is hereby dismissed.**

(Typed by me directly on the computer, transcript is corrected and signed by me and then pronounced by me in the open court on this 27th day of April, 2026.)

**Civil Judge & JMFC.,
Siddapur.**

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(Order pronounced in open court vide separate order)

O R D E R

**The application filed by accused No.
1 and 2 under Section 239 of Criminal
Procedure Code is hereby dismissed.**

**Civil Judge & JMFC.,
Siddapur.**

In view of adjudication
of application under Section
239 of Cr. P.C., this case is
posted for framing of charges
call on 19.05.2026.

**Civil Judge & JMFC.,
Siddapur.**