

IN THE COURT OF THE JUDICIAL MAGISTRATE, MELUR

Present: Selvi.D.Thendraal Muthu, L.L.M.,

Judicial Magistrate, Melur.

Dated this the 05th day of January 2026, Monday

Crl.M.P.No.3761/2021

in

C.C.No.79/2021

1. Kathiriya Begam
W/o Late. NallaMohamed

2. Riyaz Ahamed,
S/o Late. NallaMohamed

3. Jasmin,
W/o Riyaz Ahamed

4. Sulthan Razia,
W/o Mubarak

5. Mubarak Siddik,
S/o Abdul Majith

6. Sheik Jamal,
S/o Late. Mohamed Thavooth

7. Najmudheen,
S/o Late. Mohamed Mydeen

...Petitioners/3 to 9 Accused

/Vs/

State through the Inspector of Police,
A.W.P.S. Melur

... Respondent/Complainant

This petition has been coming for final hearing on 27.10.2025 before this Court, in the presence of Thiru.M.Bissimslakhan, learned counsel for the Petitioners/ 3 to 9 Accused and Assistant Public Prosecutor for the Respondent / Complainant

and upon hearing the arguments and after perusing the records and having stood over till this day for consideration, this Court doth the following:

ORDER

The petitioners have filed the petition U/s.239 Cr.P.C. to discharge the petitioners from the charges leveled against them in the C.C.No.79/2021 in connection with the FIR in Cr.No.15/2020 on the file of the respondent police and thus render justice.

2) The brief averments made in the affidavit are as follows:

The petitioners stated in their petition that the police filed the charge sheet against these petitioners is not maintainable in law. Further there is no valuable reasons against these petitioners in the complaint and 161(3) Cr.P.C. statements. Moreover the complainant filed the complaint against these petitioners all are not true and imaginary one. Further the petitioners stated that the complaint filed by the complainant against these petitioners are not specified. Moreover the marriage between the complainant and 1st accused on 06.07.2017 and thereafter the 1st accused has re-married, but these accused persons no way connected to the above said 2nd marriage. There is no valuable reasons against these petitioners, the complainant with an intention to cause trouble to these petitioners and include their name in her complaint. These petitioners are relatives to the 1st accused and they are living separately. Further there is no valuable reasons to file the charge sheet against these accused persons. Hence the petitioners have filed the petition U/s.239 Cr.P.C. to discharge the petitioners from the charges leveled against her in the C.C.No.79/2021 in connection with the FIR in Cr.No.15/2020 on the file of the respondent police and thus render justice.

3) The brief averments made in the reply are as follows:

The averments contained in the discharge petition is denied as false. The final report filed by the respondent police and statement clearly establish the prima facie case and there are strong grounds to frame the charge against the petitioners. After receiving the complaint, the respondent police investigated the case in proper manner and charge sheet has been filed before this court. Further the averments made in petition are not admitted and prove the guilt of accused. The prosecution is allowed to conduct the trial and there by the court come to conclusion, the offence are proved or not by the evidence of the witnesses and other documents. If the court where that think the accused might have committed the offence through the conclusion is required to be the accused has committed the offence. It is apparent that at the time of framing of charges probative value of the material records cannot be into, the materials brought on records by the prosecution has to be accepted as true at this stage. Hence this discharge application is to be dismissed.

4) The point for consideration is

Whether the petition can be allowed?

5) Point:-

6) The learned counsel for the petitioner submitted that there is no single statement in the charge sheet that the petitioners were involved and all the said allegations are vegue but wrongly added them, therefore they shall be discharged from the charges.

7) The scope u/s. 239 Cr.P.C is very limited. The case is in the stage of the proceedings u/s.239 Cr.P.C. At this stage, only the report of police officer, materials and documents submitted along with it u/s.173(2) Cr.P.C. only shall be taken into consideration. The fact that the available materials submitted by the prosecution along with the final report there is no material to show that the petitioners instigated any person to do any crime, engaged with any other person in any conspiracy to do

any crime or intentionally aided by any act or illegal omission, as a commission of the said crime. At this stage, without the way of trial, it could not be distinguished the acts of the petitioner with the colour of non-offensive nature. It cannot be to go deep analyzation on the basis of materials as well as versions raised by the accused. The statements of the listed witnesses u/sec.161(3) of Cr.P.C. filed along with the police report clearly contains the version against the acts of the petitioners also.

8) On perusing the documents of the police report it speaks about the abatement of the petitioner for the commission of the offence under Sec.498(A), 406, 417, 494, 294(b), 109, 506(ii) IPC. The only procedure to scale and measure the discharge petitions u/s.239 Cr.P.C. is whether sufficient materials are available for the existence of facts for constituting the offences in the police report and its documents.

9) This court has considered the submissions made on both sides along with materials on record. An accused is entitled for discharge only when there is no sufficient ground for proceeding against him. So far as the question as to what amounts to "not sufficient ground for proceeding against the accused" is concerned, the Hon'ble Supreme Court has held in AIR 2010 SC 663 in **P.Vijayan Vs. State of Kerala** as follows:

"..... Further, the words "not sufficient ground for proceeding against the accused" clearly show that the Judge is not a mere Post Office to frame the charge at the behest of the prosecution, but has to exercise his judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the prosecution. In assessing this fact, it is not necessary for the court to enter into the pros and cons of the matter or into weighing and balancing of evidence and probabilities, which is really the function of the court, after the trial starts. At the stage of Sec.227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. Sufficiency of ground would take within its fold the nature of evidence recorded by

the police or the documents produced before the court which ex facie disclose that there are suspicious circumstances against the accused as to frame a charge against him."

10) In the light of the above principles, this court has to exercise its judicial mind to the facts of the case and materials on record in order to determine whether a case for trial has been made out by the respondent as against the petitioners.

11) The Hon'ble Supreme Court has held in **R.S. Navale vs A.R.Antulay (1986) 2 SCC 716**, the testimony used in Sec. 227 & 228, Sec. 239 & 240 & sec. 245(1) & (2) was analyzed and it held that *"Despite the differences there is no scope for doubt that at the stage of which the court is required to consider the question of framing of charge, the test of prima facie case to be applied"*

12) The Hon'ble Madras High Court has held in (2015) 2 MLJ (CrI) 52, **R. Balasubramanian /vs/ Inspector of Police, CBI (BS and FC)**, wherein it is held that,

"At time of framing charge, court under no obligation to make elaborate enquiry and need not consider relevancy or admissibility of statement."

The Hon'ble Supreme Court has held in (2014) 3 Supreme Court Cases (Cri) 529, & (2014) 11 Supreme Court Cases 709, **Vigilance Anti-Corruption /vs/ N. SureshRajan and others, & State represented by Deputy Superintendent of Police, Vigilance and Anti-Corruption /vs/ K. Ponmudi** and others, wherein it is held that,

"No mini trial is contemplated at stage of considering discharge application"

"Court to proceed with assumption that materials brought on record by prosecution true."

"Court is not expected to go deep on basis of materials, thinks that accused prima facie might have committed offence, it can frame the charge"

13) The Hon'ble Supreme Court has held in 2015(1) MWN (Cr.) 321 (SC), **Sonu Gupta /vs/ Deepak Gupta & Others**, wherein it is held that, *Even if materials raise strong suspicion against Accused, Discharge petition can be rejected."*

14) At this stage of considering the discharge petition, no need of elaborate enquiry by the materials submitted by the prosecution to find out a case against the accused beyond a reasonable doubt, which could be done through trial only. Thereby the aforesaid citations are squarely applicable to this case. Thereby the presumption had come into existence regarding the involvement of the accused persons in the case of offences. The aforesaid things created strong suspicion to form presumptive opinion as to existence of factual ingredients, which constituted the alleged offences.

15) For that scaling, the materials submitted by the prosecution in the police report and the documents produced along with it u/sec.173(2) of Cr.P.C. only has to be taken into consideration. In this case sufficient materials are available to form the opinion that there is a ground for presuming the criminal acts of the petitioners related with this case and to proceed against them. Thereby the version of defence could not be taken into consideration at this earlier stage.

16) On perusing the aforesaid things, the court finds that sufficient prima facie case made out against the petitioners and under the facts and circumstances of this case, discharge of the petitioners is improper. Hence, the Court is not inclined to allow the petition. Thereby the petition is liable to be dismissed.

In the result, the petition is dismissed.

Dictated by me to the Steno-typist and typed by her in computer directly and corrected and pronounced by me in open court on this 05th day of January 2025.

Judicial Magistrate,
Melur.