IN THE COURT OF THE II ADDITIONAL CHIEF JUDICIAL MAGISTRATE, BENGALURU CITY.

Dated this 20th day of September 2025

PRESENT : **SRI.SAHEEL AHMED S. KUNNIBHAVI,** B.Com., LL.B. (Spl.)
II Additional Chief Judicial Magistrate, Bengaluru City

C.C.No.14672/2023

COMPLAINANT : State by J.P.Nagar Police Station, Bengaluru City.

V/s

ACCUSED : Sriram @ Sriramu A.R.

i.	Provision under which the application is filed	Section 239 of the Code of Criminal Procedure
ii.	Relief sought for	To discharge the accused
iii.	The date on which the application is filed	18.03.2024
iv.	Number of the application	1
v.	The date on which the objection is filed by different opponent	03.07.2025 23.07.2025
vi.	The date on which the order was passed on the said application	20.09.2025

ORDER UNDER SECTION 239 OF CR.P.C.

The learned Counsel for the accused has filed an application under Section 239 of the Code of Criminal Procedure to discharge him for the offence punishable under Section 420 of the Indian Penal Code.

2. The accused has contended that The complainant police have registered a case in Crime No. 244 of 2023 on 19.10.2022 against the accused for the offence punishable under Section 420 of IPC. After due investigation, the police have filed final report against this accused without making any investigation. The FIR date was mentioned from 19.10.2022 commencing from 01.01.2014. But to greater surprise, both the FIR and charge sheet are silent on the delay in filing the FIR. The complaint is silent about when the cheque was issued or when the alleged transaction was taken place. The accused further has submitted that this complainant is making dishonest use of cheque belonging to the accused which was in the custody of Ms. Maheshwari, wife of Ganesh, who is the present complainant in the present case. The complainant further has submitted that the wife of this complainant Maheshwari filed a complaint against the present accused on the file of the Hon'ble 7th Additional Civil Judge at Mysore registered in CC.No.1210 of

2015. The matter was referred to the Lok-Adalath and it was settled by the present accused and the complainant who is the wife of present accused. The present accused has paid the entire amount of Rs.3,00,000/-. The present accused had been to the Maheshwari and requested to return the cheque given as a security. However she failed to return the cheque and told him that the cheque has been misplaced and once it is found the same will be returned to him. Believing the words of Maheshwari, the present accused kept mum. But, however, the present complainant who is the husband of the said Maheshwari has filed this false case against him. The present complainant has also filed a complaint as per Section 138 of the Negotiable Instruments Act against the mother-in-law of the present accused. This accused has not at all issued any cheque to the complainant nor he has taken any loan from him. Based on the false complaint false investigation was conducted by the IO and filed final report. On these grounds, the accused submitted to discharge him for the offence punishable under Section 420 of Indian Penal Code.

3. On the other hand the learned Senior APP has filed his objection and contended that the application is not maintainable either on law or on facts. There are prima-facie evidence available before this Court to Prosecute against the accused. As per the guidelines of the Hon'ble Supreme Court of India, the accused cannot be discharged when there are prima-facie evidence available to prosecute against him. The documents relied by the accused even cannot be looked into. The Court has to see only the documents filed along with Final Report and accused cannot be discharged. On these grounds, the Learned Senior APP prays to reject the application filed by the accused.

4. Heard both sides. Perused the materials available on record.

5. The following point that has been arising for my consideration is:-

Whether the the accused has made out sufficient grounds to discharge him? If so, what order?

6. My answer for the above point is in the Affirmative for the following:-

REASONS

7. It is on record that Smt. Maheshwari is the wife of present complainant. It is also on record that The said Maheshwari has filed complaint against the accused punishable under Section 138 of the Negotiable Instruments Act pending before the 7th Additional Civil Judge and JMFC Mysore, which was registered in CC No. 1210 of 2015. It is also on record that the same matter was referred to the Lok-Adalath and it was settled. It is also on record that the present accused has paid an amount of ₹ 3,00,000/- to Smt.Maheshwari. All these facts are not disputed by the learned Sr.APP in his objection. The case of the present accused is that, he had issued several cheques to the Maheshwari, who is the wife of the complainant. The said Maheshwari has promised to return all the cheque after payment as per the settlement in Lok-Adalath. The Maheshwari has not returned the said cheque to the present accused. The present complainant being the husband of the Maheshwari, has misused the said cheque and filed this false complaint against the accused.

8. The learned counsel for the accused, further has argued that the said cheque present before this court is of 2015. The cheque was issued by him to the Maheshwari was in the year of 2015. He also brought my notice to the FIR wherein the date of offence was mentioned as 01.01.2014 to 14.10.2022. The present complainant has not at all mentioned when he has issued the said cheque to the complainant. When the present complainant has presented the said cheque to the bank for encashment. The present accused even has not mentioned when the bank has returned with the endorsement that the old cheque was presented to the bank for encashment.

9. I have carefully perused the information lodged by the present complainant. The complainant has not mentioned when the accused has issued cheque to him? When he has paid an amount of Rs.3,00,000/- to the accused as hand loan? When the accused promised to return the same hand loan? The informant even has not at all mentioned when he has presented the said cheque to the bank. I have also carefully perused the FIR wherein it is mentioned that the Offence commences from

01.01.2014 to 14.10.2022. It is not the case of the present complainant that this accused has issued cheque on 01.01.2014. It is also not the case of the complainant that he has presented the cheque on 14.10.2022. All these points creates doubt whether the present accused has really issued cheque to the complainant. Certainly it leads to say that this Maheshwari has promised the accused to return all the cheques. But she has not returned the said cheque to the present accused. The complainant being the husband of the Maheshwari has misused the said cheque and filed this false complaint against him.

10. The Investigation Officer has filed his Final Report in colluding with the complainant. Otherwise, the Investigation Officer would have conducted investigation when the cheque was issued, when the accused promised to return the loan, what is the basis for the offence alleged to be committed on 01.01.2014 and commences up to 14.10.2022. It is nothing but based on the false information false Final Report was submitted against the accused. Hence, this Court finds that there are no even prima-

facie materials to proceed against this accused for the offence alleged. Hence, I answer the above point in the Affirmative. In the result, I proceed to pass the following:-

ORDERS

The application filed by the learned counsel for the accused under Section 239 of Cr.P.C is hereby allowed.

The accused is discharged for the offence punishable under Section 420 of the Indian Penal Code.

(Typed by the Stenographer directly in the Court computer on my dictation, print out taken, corrected, then pronounced by me in the Open Court today this the 20th day of September 2025.)

(SAHEEL AHMED S.KUNNIBHAVI)
II Addl. Chief Judicial Magistrate,
Bengaluru City.