



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 6TH DAY OF NOVEMBER, 2024
PRESENT
THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
AND
THE HON'BLE MR JUSTICE UMESH M ADIGA

CRIMINAL APPEAL NO.1393 OF 2019 (A)
C/W
CRIMINAL APPEAL NO.1261 OF 2019(A)

IN CRL.A NO.1393/2019

BETWEEN:

THE STATE OF KARNATAKA
BY P.S.I., SULLIA POLICE STATION,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BANGALORE-01.

- APPELLANT

(BY SRI. M. DIWAKAR MADDUR, HCGP)

AND:

1. N.S. ABOOBAKKAR S/O LATE ABDUL KHADRI,
AGED ABOUT 38 YEARS, R/AT THAYIRA MANJIL,
SUNNAMOOLE HOUSE, KANAKAMAJALU VILLAGE,
SULLIA TALUK-574239.
2. K.C. SULAIMAN S/O K.C. ABDUL KUNHI,
AGED ABOUT 41 YEARS, R/AT K.C. MANJIL,
SUNNAMOOLE HOUSE, KANAKAMAJALU VILLAGE,
SULLIA TALUK-574239.
3. N.S. MOHAMMED KUNHI @ MOHAMED
S/O LATE ABDUL KHADRI, AGED ABOUT 44 YEARS,
R/AT THAYIRA MANJIL, SUNNAMOOLE HOUSE,
KANAKAMAJALU VILLAGE, SULLIA TALUK-574239.
4. K.C. MOHAMMED ALI S/O LATE K.C.ABDUL KHADRI,
AGED ABOUT 39 YEARS, R/AT K.C. MANJIL,
SUNNAMOOLE HOUSE, KANAKAMAJALU VILLAGE,
SULLIA TALUK-574239.

Digitally signed by
VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA



NC: 2024:KHC:44774-DB
CRL.A No.1393 of 2019
C/W CRL.A No.1261 of 2019

5. S MOHAMMED S/O S. KUNHIPPA,
AGED ABOUT 60 YEARS, R/AT SUNNAMOOLE HOUSE,
KANAKAMAJALU VILLAGE, SULLIA TALUK-574239.
6. S.M. YUSUF @ ESUBU S., S/O LATE ABDUL RAJAK,
AGED ABOUT 40 YEARS, R/AT SUNNAMOOLE HOUSE,
KANAKAMAJALU VILLAGE, SULLIA TALUK-574239.
7. S.S. ABDULLA S/O LATE MAMAYI BEARY,
AGED ABOUT 52 YEARS, R/AT SUNNAMOOLE HOUSE,
KANAKAMAJALU VILLAGE, SULLIA TALUK-574239.
8. THOTUNGURA ABDULLA @ P.A.ABDULLA,
S/O S. KUNHIPPA, AGED ABOUT 60 YEARS,
R/AT SUNNAMOOLE HOUSE, KANAKAMAJALU VILLAGE,
SULLIA TALUK-574239.

- RESPONDENTS

(BY SRI. AMAR CORREA, ADVOCATE FOR R1 TO R8)

THIS CRL.A IS FILED U/S 378(1) AND (3) OF THE CODE OF CRIMINAL PROCEDURE AGAINST THE IMPUGNED JUDGMENT AND ORDER OF ACQUITTAL DATED 31.12.2018 PASSED BY THE LEARNED V ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAKSHINA KANNADA, MANGALURU SITTING AT PUTTUR, DAKSHINA KANNADA IN SESSIONS CASE NO.51/2014 & ETC.,

IN CRL.A NO.1261/2019

BETWEEN:

THE STATE OF KARNATAKA
BY SUB-INSPECTOR OF POLICE, SULLIA POLICE STATION,
R/BY STATE PUBLIC PROSECUTOR, BANGALORE-01.

- APPELLANT

(BY SRI. M. DIWAKAR MADDUR, HCGP)

AND:

1. A.P. RAHIMAN, S/O U.P. ABDULLA,
AGED ABOUT 40 YEARS, R/AT SHAALIMAR VILLA,
SUNNAMOOLE HOUSE, KANAKAMAJALU VILLAGE,
SULLIA TALUK-574239.
2. ADRU KADIKADKA S/O ABOOBAKKAR,
AGED ABOUT 44 YEARS, R/AT KADIKADKA HOUSE,
JALSURU VILLAGE, SULLIA TALUK-574239.



3. A.P. NAZEEZ @ PAAPU S/O K. SATTHAR,
AGED 35 YEARS, R/AT SHALIMAR VILLA,
SUNNAMOOLE HOUSE, KANAKAMAJALU VILLAGE,
SULLIA TALUK-574239.
4. A.P. RAHEEM S/O U.P. ABDULLA,
AGED 38 YEARS, R/AT SHALIMAR VILLA,
SUNNAMOOLE HOUSE, KANAKAMAJALU VILLAGE,
SULLIA TALUK-574239.
5. ABBAS K.M. S/O MOOSA KUNHI,
AGED 40 YEARS, R/AT GOUSIYA MANJIL, SUNNAMOOLE,
KANAKAMAJALU VILLAGE, SULLIA TALUK-574239.
6. A.K. KHADER S/O A.K. ABDULLA,
AGED 41 YEARS, R/AT KANJALPADDY HOUSE,
KANAKAMAJALU VILLAGE, SULLIA TALUK-574239.
7. A.K. ASHRAF S/O LATE ABBAS U.K.,
AGED 39 YEARS, R/AT KANJALPADDY HOUSE,
KANAKAMAJALU VILLAGE, SULLIA TALUK-574239.
8. S. ABDUL KUNHI S/O SAHEEDU,
AGED 40 YEARS, R/AT SUNNAMOOLE HOUSE,
KANAKAMAJALU VILLAGE, SULLIA TALUK-574239.
9. FAROOQ S/O AHAMMAD,
AGED 37 YEARS, R/AT FAROOQ MANJIL,
SUNNAMOOLE VILLAGE, KANAKAMAJALU VILLAGE,
SULLIA TALUK-574239.

- RESPONDENTS

(BY SRI. KRISHNAMOORTHY D., ADVOCATE FOR R1 TO R9)

THIS CRL.A IS FILED U/S 378(1) & (3) OF THE CODE OF CRIMINAL PROCEDURE AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 31.12.2018 PASSED BY THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU SITTING AT PUTTUR, D.K., IN S.C.NO.100/2013 & ETC.,

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 30.09.2024 COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY THROUGH VIDEO CONFERENCE AT DHARWAD BENCH, **SREENIVAS HARISH KUMAR J.**, DELIVERED THE FOLLOWING:



CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
AND
HON'BLE MR JUSTICE UMESH M ADIGA

CAV JUDGMENT

(PER: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR)

I.A. No. 1/2023 is filed u/s 482 Cr.P.C. in Crl. A. No. 1393/2019 and I.A. No. 1/2024 is also filed u/s 482 Cr.P.C. in Crl. A. No. 1261/2019. Both these appeals are filed by the State challenging acquittal judgments in S.C. No. 51/2014 and S.C. No. 100/2013 on the file of V Addl. Dist. & Sessions Judge, Dakshina Kannada sitting at Puttur. The applicants are the respondents/ accused in the respective appeals.

2. The accused in S.C. No. 51/2014 faced trial for the offences punishable u/S 143, 144, 147, 148, 323, 324 and 307 r/w 149 of IPC in relation to an incident said to have taken place at 5.30 p.m. on 17.03.2012. The accused in S.C. No. 100/2013 faced trial for the offences punishable u/S 143, 144, 147, 148, 323, 324, 504, 506 and 307 r/w 149 of IPC. The incident that led to two FIRs being registered is as follows:

3. The accused in both the cases are muslims. In the madrasa attached to a masjid there were two groups called 'A.P.' and 'E.K'. The accused in S.C. No. 51/2014 belonged to



the group 'E.K' and the accused in S.C. No. 100/2013 belonged to the group 'A.P'. The difference between the two groups was in connection with the texts and the method of religious preaching to be imparted at madrasa. On 16.03.2012, a preceptor visited the house of A.P.Abdul Rahiman, the first accused in S.C. No. 100/2013. It appears that the accused in S.C. No. 51/2014 ridiculed the preceptor and for this reason there took place an altercation between the two groups. On the next day, i.e., 17.03.2012, when A.P.Abdul Rahiman was standing in front of his house at about 5.30 p.m. the accused in S.C. No. 51/2014 came to that place and picked up quarrel with him. In the course of quarrel, A.P.Abdul Rahiman sustained injury on his head consequent to a blow said to have been given by N.S.Abubakkar, accused no.1 in S.C. No. 51/2014. When Abdul Rahiman shouted, A.P. Rahim and Pappu Alias Nazeer K.P. came to that place, who also were assaulted. Thinking that Abdul Rahiman was dead, all the accused in S.C. No. 51/2014 left that place. Thereafter FIR was registered.

4. In relation to the same incident, the accused in S.C. No.51/2014 registered FIR against accused in S.C. No. 100/2013 alleging assault on them.



5. On conclusion of trial, both the cases ended in acquittal of the accused in the respective cases.
6. We have heard the argument of Sri Amar Correa, learned counsel for respondents1 to 8 in Criminal Appeal No. 1393/2019 and Sri Krishna Murthy, learned counsel for respondents 1 to 9 in Criminal Appeal No. 1261/2019 and Sri M. Divakar Maddur, HCGP for the appellant.
7. It is the argument of Sri Amar Correa that given a close look at the background of the incident dated 17.03.2012 it can be made out that the personal differences between two groups in regard to following the religious practices was the main reason. The accused in S.C. No. 51/2014 also made a counter complaint against the accused in S.C. No. 100/2013. Now the parties have realised their mistake and decided to live a peaceful life. For this reason they have withdrawn mutual allegations. Though the State has preferred these appeals, the fact remains that the personal differences between the parties resulted in some altercation. The offence u/S 307 IPC was invoked in both the cases. This offence is not compoundable and for this reason it cannot be said that the High Court is



powerless to dismiss the appeal accepting the settlement between the parties by invoking inherent power u/S 482 of Cr.P.C. The wound certificates show that the injured suffered simple injuries which would not have resulted in death. Assuming that prosecution was able to prove its case, accused could not have been convicted for the offence u/S 307 of IPC and at best the trial court would have recorded conviction for the offence u/S 324 of IPC. In the background of facts and circumstances it cannot be said that an offence against society had been committed inspite of charge sheet having been filed u/s 307 of IPC. By referring to some decided cases Sri Amar Correa pleaded for allowing the applications and putting a quietus to the criminal cases.

8. Learned counsel for the accused-respondents in Crl. A. No. 1261/2019 Sri Krishna Murthy. D. also urged for allowing the applications in view of mutual allegations being withdrawn by the accused in both the appeals.

9. Sri Divakar Maddur, learned HCGP opposed the applications. His submissions are that the trial court has grossly erred in recording acquittal inspite of the fact that the



injured witnesses have supported the prosecution case. Charge sheet was filed for the major offence of 307 of IPC which is non compoundable. In both the cases, the injured suffered serious injuries which might have led to death. Injuries in both the cases might be simple, but intention of the accused was clearly forthcoming. If they have entered into compromise, it is not a ground for dismissing the appeals. Therefore he argued for rejecting the applications.

10. Upon considering the arguments, the question before us is *Whether appeals can be dismissed accepting the settlement or compromise between the quarrelling parties especially when one of the offences invoked in the charge sheets being 307 IPC which is non compoundable.*

11. In this regard we may refer to two decisions of the Hon'ble Supreme Court. In ***State of Madhya Pradesh Vs. Laxminarayan & Others [2019] 5 SCC 688*** a similar question arose in view of conflicting decisions in *Narinder Singh Vs. State of Punjab [2014] 6 SCC 466* and *State of Rajasthan Vs. Shambhu Kewat [2014] 4 SCC 149*. It is relevant to extract paragraph nos. 15.4 and 15.5 here:



"15.4. Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307](#) IPC and/or the [Arms Act](#), etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in [Narinder Singh](#) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5. While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was



absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

12. In a latter judgment in the case of ***Kapil Gupta Vs. State [NCT of Delhi] and Anr. [2022] 15 SCC 44*** it is observed as below:

"12. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power."

13. Therefore the above two decisions make it very clear that the High Court can exercise power u/S 482 of Cr.P.C. to quash the proceedings at any stage provided there exist materials to exercise jurisdiction, the materials mean the dispute or the



incident that led to registration of FIR must appear to be purely private or personal between the parties without any kind of ramifications on the health and orderliness of the society. In these cases as the facts disclose the reason for the incident that occurred on 17.03.2012 was a quarrel that had taken place on the previous day when the religious preceptor visited the house of A.P.Abdul Rahiman. There were two groups in the madrasa attached to masjid and the differences erupted in connection with adopting the preaching method. These differences were purely personal between the two groups without any kind of impact on the society at large.

14. The cardinal principle of criminal jurisprudence is that the accused are presumed to be innocent of the offences till the charges are proved against them. Now because of acquittal judgment, the innocence of guilt is reinforced. Even if it is assumed that the injured witnesses have supported, it cannot be stated that conviction for the offence u/S 307 of IPC can be recorded, for all the injured suffered simple injuries which is evident from the wound certificates marked in both the cases. If the testimonies of injured witnesses can be acted upon, conviction can be recorded only for the offence u/S 324 of IPC.



This is also not compoundable. The incident might be a clash between two rival groups which hardly made any impact on the society. If all these reasons are considered, it can be said that this Court can exercise power u/S 482 of Cr.P.C. in view of compromise between the two groups. Though the State has preferred these appeals, since the victims of the incident themselves have given consent for closing the cases, there is no any legal impediment in the facts and circumstances of the case for allowing the applications. Hence the following order.

ORDER

Applications filed u/S 482 of Cr.P.C. in both the appeals are allowed.

Appeals are dismissed accepting the joint affidavits filed in both the appeals.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

Sd/-
(UMESH M ADIGA)
JUDGE

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LIST NO.: 19 SL NO.: 7