



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 974 OF 2024 (A-)

BETWEEN:

1. AJAY KUMAR M T
S/O THIMMADAS
AGED ABOUT 42 YEARS
R/AT NO 221,
4THMAIN
7THCROSS 1ST BLOCK
RAMAKRISHNANAGAR
MYSURU - 570022

...APPELLANT

(BY SRI. ASHWATH C.M FOR MOHAN B.K.,ADVOCATE)

AND:

1. SURENDRA M
FATHER'S NAME
NOT KNOWN TO THE COMPLAINANT
AGED ABOUT 40 YEARS
WORKING AS AC MECHANIC AT
ASHOKAPURAM RAILWAY WORKSHOP
AHSOKAPURA
MYSURU - 570008

...RESPONDENT

CRL.A FILED U/S 378(4) OF CR.P.C. BY THE ADVOCATE FOR THE APPELLANT/S PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DATED 24.02.2020 PASSED BY THE HONOURABLE J.M.F.C. - IV COURT, MYSURU IN C.C.NO.80/2017 BY RESTORING THE COMPLAINT OF THE COMPLAINANT.

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by
SHARADAVANI
B
Location: High
Court of
Karnataka



THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The appellant has preferred this appeal against the order dated 24.02.2020 in C.C.No.80/2017 passed by the IV Judicial Magistrate First Class, Mysore.

2. The appellant/complainant had filed a complaint under Section 138 of N.I Act. After taking cognizance the trial Court has registered the case in CC.No.80/2017 and summons was issued to the accused on 02.02.2017. Thereafter, case was adjourned from time to time. On 24.02.2020, the trial Court has dismissed the case for non-prosecution on the ground that the complainant has failed to take steps.

3. Being aggrieved by that order, the complainant/appellant-Ajay Kumar had preferred appeal before the VII Additional District and Session Judge, Mysore in Crl.A.No.128/2023 and the same came to be dismissed as not maintainable. Thereafter, the appellant has preferred this appeal before this Court.



4. On perusal of the entire order sheet of the trial Court, it is crystal clear that the complainant has paid PF for 3 times. When the Court has issued the summons through concerned police, it is the duty of the trial Court to ensure that whether the summons is served or not. The trial Court, without ascertaining the same, has issued the hand summons to the accused. The same was not received by the accused. Hence, the trial Court has dismissed the complaint for non-prosecution. Rule 8 Chapter III of the Karnataka Criminal Rules of Practice, 1968, states as 'All processes shall be served or executed by the Police unless the Court which issues the processes otherwise directs'.

5. In the case on hand, the trial Court has not assigned any reasons for issuance of hand summons before issuance of summons through concerned police. Hence, the impugned order passed by the trial Court is not sustainable under law.

6. Accordingly, I proceed to pass the following:

ORDER

- i. Appeal is ***allowed***.



- ii. The order dated 24.02.2020 passed by the IV Judicial Magistrate First Class, Mysore in C.C.No.80/2017 is ***set aside***.
- iii. The file in CC.No.80/2017 shall be restored to file.
- iv. The trial Court is directed to issue summons to the accused through concerned police. Thereafter, after securing the accused, the trial Court is directed to proceed with the case in accordance with law.
- v. Registry is directed to send the copy of this order to the trial Court.

Sd/-
(G BASAVARAJA)
JUDGE