



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO. 8981 OF 2026 (482(Cr.PC)

/ 528(BNSS)-)

BETWEEN

SAFWAN HUSSAIN @ HUSSAIN @ SUBHASH
S/O HAMMABBA,
AGED ABOUT 45 YEARS,
R/AT: 7TH BLOCK,
BESIDES KRISHNAPURA GROUND,
SURATKAL, MANGALORE
D K DISTRICT 575 014

...PETITIONER

(BY SRI: LETHIF.B., ADVOCATE)

AND

THE STATE OF KARNATAKA
REPRESENTED BY PANAMBUR POLICE STATION,
D K DISTRICT,
REP BY SPP
HIGH COURT BUILDING,
BANGALORE 560 001

...RESPONDENT

(BY SMT. RASHMI PATEL., HCGP)

Digitally signed
by SHWETHA
RAGHAVENDRA
Location: HIGH
COURT OF
KARNATAKA

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CRIMINAL PROCEDURE CODE PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN C.C.NO.605/2026 FOR THE OFFENCE PUNISHABLE UNDER SECTION 120(B), 399, 402, 142, 143 R/W 149 OF IPC ON THE FILE OF JMFC (II COURT) MANGALURU OF PANAMBUR POLICE STATION, D.K. DISTRICT, WHICH IS PRODUCED AT ANNEXURE-A, IN THE INTERESTS OF JUSTICE.

THIS CRIMINAL PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 04.08.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner is before this Court seeking for the following reliefs;

"Quash the entire proceedings in C.C.No. 605/2026 for the offence punishable under section 120(B), 399, 402, 142, 143 r/w 149 of IPC, on the file of JMFC (II Court) Mangaluru of Panambur Police Station, D.K. District; which is produced at Annexure-A, in the interests of justice."

2. On a complaint filed by Police Sub-Inspector, Crime Branch University, on 19.02.2017, stating that while he was on duty, he received credible information from a Police Inspector of the CCB unit that certain persons, including the petitioner, were moving in a Swift car and an autorickshaw near Tanneerbavi and were allegedly conspiring to commit dacoity while possessing illegal firearms and deadly weapons. The complainant secured panch witnesses along with police staff and conducted a raid at the alleged spot. Some of the accused were apprehended at the spot, while one accused escaped. It was alleged that pistols, live cartridges, knives and mobile phones



CNR: KAHC010421392026

were recovered from the possession of the accused persons under seizure mahazars. On this basis, the complainant lodged a complaint before the respondent police, which came to be registered as Crime No. 16/2017 for offences punishable under Section 120B, 399, 402, 143, 307 read with 149 of the IPC and Sections 3, 25 and 27 of the Arms Act, 1959.

3. Upon investigation, the respondent police filed charge sheet against 7 accused for offences under Section 120B, 399, 402, 142, 143 read with 149 of the IPC, which came to be registered as CC No. 1386/2017, wherein the petitioner was arrayed as accused No.1. Learned Magistrate committed the case to the Sessions Court, where it was registered as SC No. 119/2019.
4. Since accused No. 1 and 4 were absconding, it came to be split up and a separate case was registered as CC No. 605/2026.
5. The case in SC No.119/2019 proceeded for trial. Upon appreciation of the evidence placed on record, the Sessions Judge acquitted accused No.3 and 6 by Judgment dated 1.04.2025.



6. Accused No.7 had approached this court by filing a petition under Section 482 of the Cr.P.C including petition number 216/2019, wherein this court quashed the proceedings vide order dated 27.07.2022.
7. It is in the above background that it is contended that the case in CCC No. 605/2026 cannot proceed; the petitioner is before this court seeking the aforesaid reliefs.
8. Sri.Lethif.B, learned counsel for the petitioner, would submit that,
 - 8.1. The allegations levelled against the petitioner and the co-accused arise out of the very same incident, same transaction and are founded upon identical facts and evidence. The charges framed against the petitioner are more or less the same as those framed against accused No. 3 and 6, who have already been acquitted after a full-fledged trial, and the proceedings against accused No. 7 have been quashed by this Court.
 - 8.2. He submits that during the trial, the prosecution has examined several witnesses.



CNR: KAHC010421392026

Upon appreciation of the entire oral and documentary evidence, the Sessions Judge found material contradictions and inconsistencies leading to their acquittal. The Sessions Judge specifically found that the evidence of the material witness was not trustworthy and consequently extended the benefit of doubt to the accused persons.

8.3. The submission of Mr. Lethif, counsel for the petitioner, is that it is the same witnesses who would be leading evidence in the proceedings insofar as the petitioner is concerned. There is no other independent witness who could lead evidence in the matter. The evidence of witnesses has already been considered in SC No. 119/2019; there would be no purpose served by subjecting the petitioner to also a protracted trial, which would result in the same conclusion.

8.4. He relies upon the judgment of the Hon'ble Apex Court in ***Central Bureau of Investigation -v- Akhilesh Singh***,¹ more

¹ (2005) 1 SCC 478



particularly para 5 and 6 thereof, which are reproduced hereunder for easy reference:

5. The police recovered some bullets from the place of occurrence and also from the dead body of the deceased Syed Modi. The police also recovered a .38 bore revolver pursuant to the confession made by Amar Bahadur Singh. A .9 mm pistol was recovered at the instance of accused Bhagwati Singh @ Pappu. On the basis of the material available with the investigating agency, they filed a charge-sheet against the respondent. It is interesting to note that the original accused Dr. Sanjay Singh and Mrs Amita Kulkarni were implicated as accused, but both of them were discharged by an order passed by the Sessions Judge, and that order of discharge was challenged by the State before the High Court unsuccessfully. A special leave petition was also filed before this Court and that too ended in dismissal on 27-1-1994. Therefore, the very basis of the alleged conspiracy by the respondent with Dr. Sanjay Singh lost its substratum. Admittedly, the respondent was not present at Lucknow when the incident happened. The respondent was implicated in the case on the basis of the alleged conspiracy between himself and the original accused Dr. Sanjay Singh. There is no other material placed before the Court to prove the complicity of the respondent. Mr Ram Jethmalani, learned Senior Advocate appearing on behalf of the respondent, drew our attention to the various reasons given by the learned Single Judge for passing the impugned order. There was no direct evidence to show that the respondent had supplied the weapons and rendered assistance to the assailants in carrying out the common object of killing Syed Modi. Had the conspiracy charge been established, at least some of the acts and conduct of the respondent could have been made admissible under the provisions of Section 10 of the Evidence Act. Once the main accused, who is alleged to have hatched the conspiracy and who had the motive to kill the deceased, was discharged, and when that matter had attained finality, the learned Single



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

Judge was fully justified in holding that no purpose would be served in further proceeding with the case against the respondent.

6. *Another contention urged by the appellant was that the High Court exercised the jurisdiction under Section 482 of the Criminal Procedure Code after a long lapse of time. It is true that the respondent challenged the framing of charges against him after a considerable delay, but it seems that the order of discharge passed in favour of the main accused attained finality only in 1994 when this Court dismissed the special leave petition. It was thereafter only that the respondent approached the Court with an application under Section 482 of the Criminal Procedure Code and the learned Single Judge in those circumstances condoned the delay. We do not think that the power exercised by the High Court suffered from any illegality or perversity. Going by the facts and circumstances of the case, we do not think that this is a fit case where this Court can interfere. The appeal is dismissed accordingly.*

8.5. By relying on **Akhilesh Singh**, the submission is that on examination of the evidence led by the witnesses for the prosecution, there is no direct evidence against the petitioner and as such, there will be no purpose served by a protracted trial.

8.6. He relies on **Vishwas Bhandari -v- State of Punjab and Another**,² more particularly paras 3 and 10 thereof, which are reproduced hereunder for easy reference:

² (2021) 2 SCC 605



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

3. Upon completion of the investigation, a report under Section 173 of the Code was filed against Vikram Roop Rai. Furthermore, proceedings for declaring the appellant as a proclaimed offender were also initiated.

10. Since there is no evidence against the appellant, the proceedings initiated against him on the basis of FIR would be untenable. The High Court was, thus, not justified in dismissing the petition against the appellant.

8.7. By relying on **Vishwas Bhandari**, his submission is that even a proclaimed offender would be entitled to the benefit where there is no evidence against the proclaimed offender. Merely because the petitioner was a proclaimed offender will not take away his right to be heard by this court under Section 482 of the Code of Criminal Procedure.

8.8. He relies on **State of Karnataka -v- K.C.Narasegowda**,³ more particularly para 2 and 5 thereof, which are reproduced hereunder for easy reference:

2. It is necessary to note that all nine accused were tried in S.C. No. 57/91 on the file of the Principal Sessions Judge, Tumkur for the offences punishable under Sections 148, 324, 326, 307 r/w. 149 of the IPC. After considering the entire evidence on record, the Trial Court convicted all the accused on all counts and sentenced them accordingly. It is to be noted that after conviction, the accused No. 1,

³ (2005) SCC OnLine Karnataka 89



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

Narsegowda S/o. Channegowda, who was on bail, escaped arrest and the sentence awarded by the Trial Court. As per the note of the learned Sessions Judge, steps were taken in this regard, but accused No. 1 remained untraced till date. In the meanwhile, the other convicted accused Nos. 2 to 9 approached this Court in CrI. A. No. 225/98 and the learned Single Judge of this Court, on reappreciation of the entire evidence, by the judgment dated 4-3-2003, held that the prosecution has failed to bring home the guilt of the appellants (accused-2 to 9) beyond reasonable doubt and, as such, the eight accused stood acquitted. Now, as accused No. 1 alone remained untraced and since the file, so far as he is concerned, for sentence is kept pending, the learned Sessions Judge under Section 395(2) of Cr. P.C. referred the matter to this Court.

5. *As is well settled from the catena of decisions of the Apex Court including Suresh Chaudhary v. State of Bihar, Bijoy Singh v. State of Bihar, Raja Ram v. State of M.P., Anil Raj v. State of Bihar and Pawan Kumar v. State of Haryana, where on evaluation of a case, no conviction of any accused is possible, the benefit of doubt extended to the co-accused similarly situated is also available for the non-appealing accused. In the present case also, this Court has dealt in detail so far as the evidence against the accused Nos. 2 to 9 was concerned in the CrI. A. 225/98 and found that the prosecution has miserably failed to bring home the guilt against any of the accused. On going through the facts and circumstances as well as the reasoning of this Court, we also hold that as the entire material evidence of the prosecution is one and the same as against all the accused including the non-appealing accused No. 1 who is said to be absconding, there is no second opinion that he is also entitled for the same benefit of doubt as is extended to his co-accused in the light of the law laid down by the Hon'ble Supreme Court in the case of Suresh Chaudhary cases.*



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

8.9. By relying on **Narasegowda**, his submission is that in that case, nine accused were tried and after considering the entire evidence on record, the trial Court convicted all the accused on all counts and sentenced them. Those accused having filed a criminal appeal, on re-appreciation of the entire evidence, the Appeal Court held that the prosecution had failed to bring home the guilt of the offence beyond reasonable doubt and has thus acquitted the eight accused who had already been convicted. One of the accused, having remained untraced, had approached the High Court by filing a petition under Section 482. Hence, the Co-ordinate Bench of this Court, on evaluation of the case, held that no conviction of any accused is possible, extended the benefit of doubt to the untraced accused and quashed the proceedings. His submission is that similar orders could be passed in the present matter.

8.10. He relies upon the decision of the Co-ordinate Bench of this Court in **Althaf Hussain Sareef - v- State of Karnataka and Another** ⁴ dated 10.11.2020, more particularly para 23 thereof,

⁴ Crl. P. No. 770/2017 DD 10.11.2020



which is reproduced hereunder for easy reference:

23. *The entire case revolves around the circumstantial evidence. Therefore, it is said that the reliance placed by the petitioner's counsel seeking discharging the accused from the case in S.C.No.06/2017 and also the grounds urged in this petition are found to be justifiable. Under the above said circumstances, in view of the law laid down by the Apex Court and so also, this Court, I am of the considered opinion that the materials available on record before the trial Court against co-accused No.1 and the present petitioner who is arraigned as accused No.2 are inseparable and indivisible in nature. Therefore, the same benefit has to be extended to the petitioner if not, there shall be miscarriage of justice and abuse of process of law.*

8.11. By relying on ***Althaf Hussain Sareef***, his submission is that when the material available on record is inseparable and indivisible in nature, the benefit of acquittal has to be extended to all the accused.

8.12. He relies on the decision of the Coordinate Bench in ***Shakeel Ahammada -v- State of Karnataka***,⁵ more particularly paras 6 and 7 thereof, which are reproduced hereunder for easy reference:

6. *In another decision reported in 2002(1) KCCR 1 in the case of Muneer Ahmed Qureshi, Muneer @ Gaun Muneer Vs. State of Karnataka by*

⁵ WP No. 709 of 2018 DD 2.02.2018



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

Kumarswamy Layout Police, wherein this Court has held that: -

"Entire case of the prosecution as against six accused is practically inseparable and individual one and especially when the Judgment of acquittal is passed, when P.W.1 denies the entire incident or the role of the accused. This reasoning of acquittal would also definitely enure to the petitioner. Even if the petitioner is tried there cannot be any other material other than what is already produced and considered by Trial Court. In such circumstances it will be an exercise in futility to make the petitioner to undergo the ordeal of crime, and then to be acquitted. Holding that the proceeding against the accused person who was absconding and subsequently against whom a split up charge sheet was filed was quashed."

7. In view of the above said decisions, it is crystal clear that if the allegations against the accused persons and co- accused who were tried and acquitted by the Court are one and the same and they are not separable in nature and the prosecution has already led evidence in one of the case and the said evidence projected by the prosecution was also in respect of the absconding accused and there is no separate or better evidence that can be produced by the prosecution, in such an event, the Court can quash said proceeding against the accused who was not available for the trial.

8.13. By relying on **Shakeel Ahammada**, his submission again is that if the allegation against the accused persons and co-accused were tried and acquitted by the court are one and the same and they are not separable in nature and the prosecution has already led



evidence in one of the cases, the said evidence projected by the prosecution would be the same as regards the absconding accused, there being no separate or better evidence that can be produced by the prosecution. The criminal proceedings in the split-up proceedings have to be quashed by this Court.

8.14. He relies on one other decision of a coordinate Bench of this Court in **Narayan Swamy -v- State of Karnataka and Another**,⁶ more particularly paras 6 and 7 thereof, which are reproduced hereunder for easy reference:

6. *A careful perusal of the order passed by the learned Sessions Judge in S.C.No.903/2013 shows that only one witness was examined on behalf of the prosecution and on consideration of the material, learned Sessions Judge has recorded that prosecution has failed to prove the case and acquitted accused No.1.*

7. *This Court has taken a consistent view that when the co-accused have been acquitted, no useful purpose would be served to continue the proceedings against remaining accused. [See, Ashraf K.S. Vs. The State (Crl.P.No.3809/2017 decided on 12.06.2018)].*

8.15. By relying on **Narayan Swamy**, his submission is that when the Sessions Court had recorded that the prosecution had failed to prove the

⁶ Crl.A. No. 7796 of 2018 DD 8.01.2019



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

case, the co-accused having been acquitted, no useful purpose would be served by continuing the proceedings against the remaining accused.

8.16. He relies upon the decision of the Co-ordinate Bench of this Court in ***Ravi alias Ravichandra v. The State (Through the Investigating Deputy Superintendent of Police (H&b) COD***⁷ more particularly para 9, 10, 11, 12, 13, 14 and 17 thereof, which are reproduced hereunder for easy reference:

9. *Prosecution after placing its case on record, sought for their conviction. Learned Sessions Judge after appreciating the evidence tendered by parties has acquitted all the 32 accused persons on the ground that there is no consistent, cogent and corroborative evidence tendered by the prosecution witnesses and it creates a doubt about the commission of offence by the accused persons.*

10. *It is the contention of Sri. P.P.Hegde, learned counsel appearing for petitioner namely, accused No.3, who has now been arraigned as accused in the same crime number registered in C.C.No.1170/2007, that charge framed against accused in sessions case is general and common against all the accused persons including petitioner herein that they have committed the murder of Ibrahim on 07.10.2006 and when all the accused persons have been acquitted by a common judgment dated 31.10.2008, which has reached finality, continuation of further proceedings against the present petitioner would be abusing process of law. It is also submitted that even after conduct of*

⁷ Criminal No. 4796 of 2017 DD 5.07.2017



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

fresh trial against the petitioner, same would be waste of judicial time and it would not serve any judicial purpose. Hence, he seeks for quashing of proceedings.

11. *Per contra, Sri. Rachaiah, learned HCGP appearing for the State submits that petitioner, who is a person who was absconding and until and unless he surrenders before jurisdictional Court, if proceedings are quashed, it would be a giving premium to a person who has been absconding. As such, relying upon the judgment of this Court in the case of HYDER vs. STATE OF KARNATAKA reported in ILR 2015 Kar. 970 he prays for rejection of this petition.*

12. *Having heard the learned Advocates appearing for parties and on perusal of records it would disclose that petitioner/accused was never traced and non-bailable warrant issued against him was never executed. Hon'ble Apex Court in the case of CENTRAL BUREAU OF INVESTIGATION vs AKHILESH SINGH reported in AIR 2005 SCC 268 has held quashing of charge and order discharging co-accused can be passed, if the proceedings initiated against co-accused is on similar allegations and if said judgment had reached finality. It is also held that discharge of a co-accused by the High Court by holding that no purpose would be served in further proceeding with the case, is just and proper. In another ruling in MOHAMMED ILIAS vs. STATE OF KARNATAKA reported in (2001) 3 Kant LJ 551 this Court has held as under:*

"The petitioner is the accused in the case and he is shown to be the absconding. Therefore, the case against the petitioner was split up and charge-sheet was laid against other available accused Nos.1 and 3 for committing an offence punishable under Sections 498A and 307 IPC r/w 34 Indian Penal Code, 1860. After the trial, the Sessions Judge acquitted the accused Nos.1 to 3. The petitioner was arrested and proceedings were revived against him in the split charge sheet.... In the instant case also, the



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

full pledged trial was held against accused Nos.1 to 3, in respect of the same offence. In the second round of trial against the petitioner, the evidence to be produced cannot be different from the one that was produced by the prosecution in the earlier case. Therefore, in that view of the matter, the proceeding is quashed."

13. Yet, in another ruling *THE STATE OF KARNATAKA vs. K.C.NARASEGOWDA* reported in ILR 2005 Kar. 1822 this Court has held to the following effect:

"As the case before the Sessions Judge is not a pending case, he cannot keep the file any longer pending nor he can close the case as he has to await appearance of the accused or the production by the State, for passing orders regarding undergoing sentence. As such, considering these peculiar facts and circumstances, it is deemed proper to exercise the inherent jurisdiction under Section 482 of Cr.P.C. instead of jurisdiction under Section 385 of Cr.P.C. in the interest of justice. As the entire material evidence of the prosecutions is one and the same, as against all the accused including the non-appealing accused No.1, who is said to be absconding, there is no second opinion that he is also entitled for the same benefit of doubt as he is extended for his co-accused. Accused acquitted by giving benefit of doubt."

14. In this background, when the facts on hand are examined, it would clearly indicate that not only complainant but also other witnesses including the inmates of ambulance in which they were travelling on the date of incident, had turned hostile in the proceedings which was continued against co-accused. Though, P.W.1 – complainant had admitted that he has lodged a compliant as per Ex.P-1 and had also admitted that he has given a statement identifying the accused before the Investigation Officer, he did not identify the accused persons present before Court. In fact, statements given by him as per Exs.P-2 to P-4 when confronted, he



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

denied the same and had also denied the suggestion put by the public prosecutor that he had furnished the statements as per Exs.P-2 to P-4 as false. P.W.2 to P.W.8 had not identified the accused persons present before the jurisdictional Sessions Court. In fact, they have not even identified the statements made by them before the Investigating Officer and nothing worthwhile has been elicited in their cross-examination to disbelieve their evidence. Thus, taking into consideration said evidence available on record Sessions Court had arrived at a conclusion that evidence of the witnesses examined by prosecution would not come to their assistance. In fact, witnesses to the seizure panchnama - Ex.P-40, who were examined as P.W.16 and P.W.17, have also turned hostile and they have stated that police had called them a year back to the police station and when they went to the police station, they had not seen any accused persons in police station. However, they admit police having taken their signatures on the papers and contents of it were not known to them.

17. *In view of the aforestated facts and the law laid down, as discussed hereinabove, it would emerge that there would be no harm or injustice that would be caused to prosecution if benefit of acquittal order is passed in favour of accused – petitioner, since accused Nos.1 to 23 and 25 to 33 against whom similar allegation had been made is already acquitted. Though, it is contended by Sri. Rachaiah, learned HCGP appearing for the State that petitioner should not be extended said benefit, since he is an absconder, by relying upon judgment of Coordinate Bench this Court is not inclined to accept said contention for single reason that said judgment had been rendered based on the judgment of Apex Court in the case of DEEPAK RAJAK vs. STATE OF WEST BENGAL reported in (2007) 15 SCC 305 whereunder Apex Court after noticing the facts obtained in the said case, had held that benefit of acquittal, should be extended to the appellant, since co-accused had been acquitted and held that a departure can be made in cases where accused has not surrendered*



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

"after conviction" in addition to not filing an appeal against the conviction. As such, noticing earlier position of law laid down it was held by the Apex Court that in case of acquittal of a accused for same offence on same set of facts and on similar accusations, if considered, it would entitle for acquittal of co-accused also.

8.17. By relying on ***Ravi alias Ravichandra***, his submission is that when the Sessions Judge, after appreciating the evidence rendered by the parties, had in that case acquitted all 32 accused persons on the ground that there is no consistent, cogent and corroborative evidence tendered by the prosecution. The same having attained finality, the conduct of a fresh trial against the petitioner would be a waste of judicial time and would not serve any judicial purposes. His submission is that this Court has rejected the contention of the learned HCGP in that matter that the benefit cannot be extended to a person who is absconding until and unless he surrenders before the jurisdictional court. In that case, the witnesses having turned hostile, resulting in acquittal, this Court held that the prosecution could not continue. On the very same ground, he submits that the said decision would apply on all fours in the present matter



CNR: KAHC010421392026

and this Court is required to quash the proceedings against the accused.

9. Smt.Rashmi Patel, learned HCGP would contend that,

9.1. The petitioner is an absconder; the petitioner, not having participated in the trial, having kept himself away from trial, the petitioner sitting on the fence cannot seek to take the benefit of the acquittal without undergoing trial.

9.2. She submits that, mainly because the proceedings have been quashed against the other accused cannot lead to the only conclusion that the proceedings against the petitioner would also be quashed. Her submission is that it is upon the trial court that the trial court would have to decide whether any case has been laid out against the petitioner or not, and on that ground she submits that the present petition is required to be dismissed.

10. Heard Sri.Lethif.B, learned counsel for the petitioner and Smt.Rashmi Patel, learned HCGP for respondent-State. Perused papers.



11. The short question that would arise for consideration is whether, in the facts and circumstances, the proceedings have to continue against the petitioner or could it be quashed by this court exercising powers under Section 482 of the Criminal Procedure Code?
12. Vide the Judgment dated 1.04.2025 in SC No. 119 of 2019, the Sessions Court had framed various points for consideration, which are reproduced as under:

1) Whether the prosecution has proved beyond all reasonable doubts that on 19.02.2017 at about 08.40 a.m. by the side of the public road going to Tannirbavi from Kudremukh, Kuloor, Panamboor Village, the accused no.3 and 6 along with split accused No.1, 2, 4 and 5 have with an common object have formed criminal conspiracy to commit murder of one Iliyas of Target Group and further to commit robbery wealthy people and hence, the accused persons have committed an offence punishable under Section 120(B) R/W 149

2) Whether the prosecution has proved beyond all reasonable doubts that on the above said date, time and place the accused No.3 and 6 along with other split accused persons with an common object of committing robbery have come in Maruthi Swift Car bearing Reg.No.KA-19-ME-4009 and Auto-Rickshaw bearing Reg.No. KA-19-AB-6123 and assembled together and hence, the accused persons have committed an offence punishable under Section 402 of Indian Penal Code?

3) Whether the prosecution has proved beyond all reasonable doubts that on the above said date, time and place the accused No.3 and 6 along with other split accused persons with common object of committing murder and robbery have formed unlawful assembly by



CNR: KAHC010421392026

NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

holding deadly weapons such as Pistol, Live Bullets and knife and hence, the accused persons have committed offences punishable under Section 142, 143 and 144 R/W 149 of Indian Penal Code?

4) Whether the prosecution has proved beyond all reasonable doubts that on the above said date, time and place the accused No.3 and 6 along with other split accused persons with an common object of committing dacoity of wealthy persons have prepared by forming unlawful assembly holding deadly weapons and hence, the accused have committed an offence punishable under Section 392 of Indian Penal Code?

13. A perusal of the above points for consideration would indicate that these points have been framed as against all the accused together. There is no separate allegation which has been made against the petitioner dehors or over and above that which had been made against accused No. 3 and 6 therein, who had been acquitted.
14. The Sessions Court, after considering all the evidence in the matter, observed that the mahazar witnesses had turned hostile, the panchas were not available or unreliable, and the prosecution sought to prove the case only through the evidence of the investigating officer. The Sessions Court observed that when all the eyewitnesses and circumstantial witnesses have turned hostile to the case of the prosecution, the evidence of the official witnesses alone cannot be accepted and came to a conclusion that the



CNR: KAHC010421392026

prosecution had not proven the case against accused No. 3 and 6 therein. On facts, the Sessions Court observed that the place where the alleged offence is said to have taken place has houses, shops and a bank and therefore rejected the prosecution story that the alleged spot of incident has less movement of public. The Sessions Court further held that the investigation done by the Investigating Officer and the allegations in a charge sheet are not trustworthy to believe the story of the prosecution and that the evidence with uncertainty on record is not sufficient to constitute the ingredients of the offence. On that ground, the Sessions Court came to a conclusion that the prosecution failed to prove the involvement of the accused persons beyond all reasonable doubt, answered all the points raised in the negative and acquitted the accused No. 3 and 6 who were tried.

15. Insofar as the criminal petition filed by accused No.7, this Court, for its Order dated 27.07.2022 in Criminal Petition No. 216 of 2019 was of the opinion that no independent eyewitness had identified accused No.7, the statement of witnesses were recorded after the apprehension on the ground that he was a person who ran away and quashed a proceedings against accused No.7. The finding of both the Sessions Court



CNR: KAHC010421392026

in **C.C.** No.605/2026 and this court in Criminal petition No.216/2019, in my considered opinion would equally apply to the petitioner.

16. Admittedly, the petitioner was not apprehended at the spot. He is also a person who is said to have run away and was never apprehended. The proceedings continued by declaring the petitioner as an absconder and a split-up charge sheet was filed. The allegations made against the petitioner are one and the same. The decisions which have been cited by the petitioner and as extracted hereinabove would apply on all fours to the case of the petitioner also, inasmuch as there is no particular allegation made against the petitioner, which stands on a separate footing from that of accused No.3 and 6, who have undergone trial.
17. As regards the contention of learned HCGP, the petitioner has not stood trial; he had absconded and therefore would not be entitled to the benefit of the acquittal in those proceedings. The Hon'ble Supreme Court in **Vishwas Bhandari** had extended the benefit of acquittal even to a proclaimed offender, which would also apply to the present case.



18. The Division Bench of this Court, in ***Narasegowda***, on a reference made, came to a conclusion that when the criminal proceedings had ended in acquittal in respect of 8 accused, the benefit ought to be extended even to the accused who remained untraced and since the file so far as he is concerned for sentence is kept pending. Thus, those decisions supporting the contention of the petitioner there being no particular allegation which has been made which stands out against the petitioner individually, this court is of the concerned opinion that a full-fledged trial, if conducted, against the petitioner would also not yield any different result and would only be a waste of the precious judicial time when accused No.3 and 6 after trial have been acquitted and the proceedings against accused No.7 has been quashed, Petitioner/accused No.1 would also be entitled to the very same benefit. As such, this Court passes the following:

ORDER

- i. Criminal petition is allowed.
- ii. The proceedings in CC No. 605 of 2026 pending on the file of the JMFC-II Court, Mangaluru, arising out of Crime No.16/2017 registered by



NC: 2026:KHC:46025
CRL.P No. 8981 of 2026

CNR: KAHC010421392026

the Panamburu Police Station, D.K. District, are
quashed in so far as the petitioner is
concerned.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

LN
List No.: 2 Sl No.: 1