



CNR: KAHC010441712016

NC: 2026:KHC:54947
CRL.A No. 1804 of 2016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 1ST DAY OF OCTOBER, 2026
BEFORE
THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO. 1804 OF 2016 (A)

BETWEEN:

1. THE STATE BY THE
C.S.PURA POLICE,
TUMKUR DISTRICT,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.

...APPELLANT

(BY SRI. K. NAGESHWARAPPA, HCGP)

AND:

1. NAGAMMA
W/O LATE BALARAJ,
AGED ABOUT 52 YEARS,
OCC: WEAVER, R/O KALLURU,
GUBBI TALUK,
TUMAKURU DISTRICT-572216.
2. KAMALAMMA
W/O LATE ARUNA KUMAR,
AGED ABOUT 49 YEARS,
OCC: LABOURER,
R/O INDIRA NAGAR, HILIYARU,
C.N.HALLI TALUK,
TUMAKURU DISTRICT-572216.
3. RAVI
S/O LATE BALARAJU,
AGED ABOUT 30 YEARS,



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OCC: WEAVER, R/O KALLURU,
GUBBI TALUK,
TUMAKURU DISTRICT-572216.

4. UMA
W/O RAGHU,
AGED ABOUT 32 YEARS,
OCC: WEAVER, R/O KALLURU
GUBBI TALUK,
TUMAKURU DISTRICT-572216.

...RESPONDENTS

(BY SRI. MOHAN S., ADV. FOR R1-R4)

CRL.A. FILED U/S.378(1) AND (3) CR.P.C BY THE S.P.P. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO GRANT LEAVE TO APPEAL AGAINST THE IMPUGNED JUDGEMENT AND ORDER OF ACQUITTAL DATED 11.03.2016 PASSED BY THE PRL. DIST. AND S.J., TUMKURU IN S.C.NO.254/2012 THEREBY ACQUITTING THE RESPONDENTS-ACCUSED OF THE OFFENCES P/U/S 20(ii)(b),29 OF NDPS ACT.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The State has preferred this appeal against the judgment of acquittal dated 11.03.2016 passed in SC.No.254/2012 by the Principal District and Sessions Judge, Tumakuru (for short, 'the Trial Court').



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2. For the sake of convenience, the parties herein are referred to as per their rank before the Trial Court.

3. Brief facts leading to this appeal are that, the Sub Inspector of Police, Chandrashekarapura Police Station, Gubbi Circle, Tumakuru District, laid a charge sheet against the accused for the offence under Sections 20 and 25 of NDPS Act, 1985. It is alleged by the prosecution that, on 31.08.2012, the C.P.I, Gubbi Circle on receipt of a credible information regarding selling of Ganja, in a house near Vasudeva Temple, Kallur Village, Kasaba Hobli, Gubbi Taluk, conducted raid and found the accused in possession of 6kgs, 150-grams Ganja. Accused No.1 was selling ganja packet for Rs.50/- each and accused No.2 was supplying ganja to accused No.1. Accused 3 and 4 being son and daughter-in-law of accused No.1, are encouraging accused Nos.1 and 2 in holding and selling ganja in their house. Thus, the accused have committed the alleged offences.

4. After filing the charge sheet, case was registered in Special Case No.254/2012. On hearing, the Trial Court has



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framed the charges for the offence under Sections 20(ii)(b) of NDPS Act. Charge was also framed under Section 29 of the NDPS Act. Same were read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, in all, 7 witnesses were examined as PW1 to PW7, 21 documents were marked as Exs.P1 to P21 and 9 material objects were marked as Mos.1 to 9.

6. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C. was recorded. The accused have totally denied the evidence of prosecution witnesses. However, 4 documents were marked as Exs.D1 to D4 on behalf of the accused.

7. Having heard the arguments on both sides, the trial Court has acquitted the accused. Being aggrieved by the judgment of acquittal, the State has preferred this appeal.



8. The learned HCGP Sri Nageshwarappa K, would submit that the impugned judgment and order of acquittal passed by the Trial Court is opposed to law facts and probabilities of the case. The reasons assigned by the Trial Court while passing the impugned judgment and order of acquittal are not proper.

9. The learned Sessions Judge has failed to appreciate the case of the prosecution that in the instant case, all the witnesses examined by the prosecution have supported the case of the prosecution; particularly PWs.1 and 2 have clearly deposed in support of the prosecution case. Evidence of PWs.1 and 2 is further corroborated by the evidence of other witnesses. But the learned Sessions Judge acquitted the accused persons by pointing out some minor contradictions and omissions in the evidence of the prosecution witnesses. Hence, reasons assigned by the learned Sessions Judge for grant of acquittal is not just and proper.



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10. The learned Sessions Judge has disbelieved the evidence of PWs.1 to 7 who have supported the case of the prosecution though their evidence corroborated with each other, but the learned Sessions Judge stuck on to the minor technicalities in the evidence of these witnesses, though, those contradictions does not go to the root of the matter. Hence, order of acquittal passed by the trial Court is totally perverse and calls for interference by this Court.

11. Further, it is submitted that, the Trial Court has failed to appreciate the evidence on record in its proper perspective and sought for allowing this appeal.

12. As against this, the learned counsel for respondents Sri Mohan S, would submit that there is 17 hours delay in submitting the FIR to the Court. The raid was not properly conducted by the IO, that there is overwriting on MOs. The Trial Court has observed all the lapses committed by the IO and also non-compliance of mandatory provisions of NDPS Act, 1985. The State has not made out any grounds to



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interfere with impugned judgment of acquittal and sought for dismissal of the appeal.

13. Having heard the arguments on both sides, the following points would arise for my consideration:

(1) Whether the state has made out grounds to interfere with the impugned judgment of acquittal?

(2) What order?

14. My answers to the above points as under:

Point No.1: in Negative.

Point No.2: As per final order.

Regarding Point No.1:

15. Before appreciation of evidence on record, it is necessary to mention as to the judgments of the Hon'ble Apex Court in the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOUDA RUDRAGAUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF



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KARNATAKA reported in (2007)4 SCC 415; and H.D. SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. The principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure are, the acquittal of the accused further strengthens the presumption of innocence; the appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence; the appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record; if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was



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that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible. The interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised only if the judgment of acquittal suffers from patent perversity; the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

16. In the case on hand, to prove the guilt of the accused, in all 7 witnesses are examined as PW1 to PW7, 21 documents are marked as Exs.P1 to 21 and 9 material objects are marked as MOs.1 to 9.

17. PW1, 3, 5 and 6 are the official witnesses. PW2 and PW4 are the independent witnesses. The witnesses have specifically stated about accused No.1 having found in possession of Ganja illegally. They also stated about accused No.2 supplying Ganja to accused No.1, and also



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accused Nos.3 and 4 assisting and instigating accused No.1 in storing Ganja.

18. After discussing the evidence of all the prosecution witnesses, the trial Court has observed in Paragraphs 15 and 16 of the judgment, as under:

"15. PW.6 Ghorpade is the P.S.I., who worked at C.S.Pura police station between 17-07-2010 and 10-09-2012. According to this witness, the C.P.I., received an information about selling of ganja illegally in a house at Kallur village and asking this witness to co-operate and this witness also accompanies the other police officials in the raid. This witness states that, the C.P.I., did not intimate him to bring 3 witnesses ie., Dr.Narayanagowda, Indires and Chandrashekhar and this witness himself goes to places of those three persons and issues a memo. If we peruse the evidence of this witness, this witness does not say anything about the mandatory requirements that are to be followed in the Narcotic Drugs and Psychotropic Substances case. This witness admits that, no crime number was given till a report was given and if the material objects shows the crime number and the other witness C.P..I., says about writing the crime after the case was registered.



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This witness states that, no such number was entered on the chit pasted to the material objects and again this contradicts the version of C.P.I. This witness categorically states that, the chit was not pasted in his presence. So, though this witness is an important witness and a member of the raiding party and being a P.S.I., was not present when the chit was pasted on the material objects, which only indicates that, the witnesses are not speaking truth before the court, to accept the version of the prosecution. If the witness PW.1 states that, requisition was given by the P.S.I., this witness PW.6 states that, no such requisition was given by this witness to PW. 1 and the document shows that, it was issued by the C.P.I. Similarly, in clear terms this witness States that, there is no mention of flowers in the mahazar and if according to FSL report, there were flowers seen in the material, why the same is not mentioned in the mahazar, is not stated by the prosecution.

16. So, the only remaining witness is PW.7 Ujinappa, who partly investigated the matter and in his evidence, he states that, he received the FSL report and the document in respect of the house and has filed the charge-sheet. The evidence of this witness is not of much importance in this case. If we peruse the records, F.I.R., is sent to the Magistrate after lapse of 13½ hours, which is not explained properly. There is



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enormous delay in sending F.I.R., to the court and one can see corrections made in Ex.P.7 ie., when accused No.1 was questioned, the date initially is written and subsequently the same is struck off and rewritten and boundaries of the house in Ex.P.2 do not tally with Ex.P.2. The overall evidence on record only indicates that, the version of the prosecution witnesses do not corroborate with each other and further the evidence of the witnesses contradict itself and the material placed before the court in view of the discrepancies do not prove the case of the prosecution and as such, the benefit of doubt should go to the accused and accordingly, I answer point No.1 and 2 in the negative."

19. On careful examination of the entire materials on record, I do not find as to the compliance of mandatory provisions of Sections 42, 50, 52A of NDPS Act, 1985 and Section 102 of Cr.P.C. The trial Court has properly appreciated the evidence on record in accordance with law and facts.

20. On re-appreciation / re-consideration / re-examination of the entire materials on record, I do not find any legal or factual error in the judgment of acquittal. Considering the



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facts and circumstances of the case and also keeping in mind the aforesaid decisions of the Hon'ble Supreme Court, I answer point No.1 in Negative.

Regarding Point No.2

21. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

Appeal is **dismissed**.

**Sd/-
(G BASAVARAJA)
JUDGE**

DHA
LIST NO.: 1 SL NO.: 51