



CNR: KAHC010473512015

NC: 2026:KHC:42045
CRL.A No. 1409 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 27TH DAY OF JULY, 2026
BEFORE
THE HON'BLE MR. JUSTICE S RACHAIAH
CRIMINAL APPEAL NO. 1409 OF 2015 (A)

BETWEEN:

STATE OF KARNATAKA
BY PUTTUR RURAL POLICE D K
MANGALURU – 574 201

...APPELLANT

(BY SRI. LAKSHMAN B., HCGP)

AND:

1. ZAKIR HUSSAIN
S/O ABDUL RAHIMAN
AGE 46 YEARS
R/AT KODYALAMANE
KANIYUR VILLAGE
BELTHANGADI TALUK – 574214
2. B A MOHAMMAD @ PODIYA
S/O LATE ABBU BEARY
AGED ABOUT 56 YEARS
R/AT BANDASHALEMANE
DIDUPE MITHABGAILU VILLAGE
BELTHANGADY TALUK – 574 214
3. K M HAMZATH @ HAMZA
S/O LATE K MAHAMMAD
AGED ABOUT 38 YEARS
R/AT MARATHAGUNDIMANE

Digitally
signed by
SUSHMA
LAKSHMI B
S
Location:
High Court
of
Karnataka



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KILLUR MITHABGILU VILLAGE
BELTHANGADI TALUK – 574214

4. VIJAYA HEGDE
S/O NAGAPPA HEGDE
AGED ABOUT 36 YEARS
R/AT KADUMANE MITHABGILU VILLAGE BELTHANGADI
TALUK – 574 214
5. UMESH POOJARY
S/O KRISHNAPPA POOJARY @
KITTA POOJARY
AGED ABOUT 34 YEARS
R/AT MALURUMANE
MITHABAGILU VILLAGE
BELTHANGADI TALUK – 574 214

...RESPONDENTS

(BY SRI.P.P.HEGDE, SR.ADVOCATE FOR
SRI.VENKATESH SOMA REDDI, ADVOCATE FOR R1;
R2, R3, R4 AND R5 ARE SERVED AND UNREPRESENTED)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION
378(1) AND (3) CR.P.C PRAYING TO SET ASIDE THE
JUDGMENT AND ORDER DATED 14.07.2015, PASSED BY THE
PRL. S.J./SPL. JUDGE, D.K., MANGALORE, IN
SPL.C.NO.27/2009, ACQUITTING THE RESPONDENT/ACCUSED
NO.1 TO 5 FOR THE OFFENCE P/U/S 8(A) R/W 20(B) OF NDPS
ACT.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH



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ORAL JUDGMENT

This appeal has been filed by the State being aggrieved by the judgment of acquittal dated 14.07.2015 passed in Spl.C.No.27/2009 on the file of the Principal Sessions Judge/Special Judge, D.K., Mangaluru.

2. Rank of the parties before the Trial Court will be considered henceforth for convenience.

Factual matrix of the case:

3. The case of the prosecution is that the complainant had received an information that the accused Nos.1 to 5 had stored ganja in an auto rickshaw bearing registration No.KA-10-A-3596 and the said auto was parked in front of the house of accused No.1. On receiving the said information, the complainant and his team along with panch witnesses rushed to the spot and conducted a raid and found that 15 kgs of ganja was there in the said auto and 9 kgs of ganja was found inside the house of accused No.1. Thus, a total 24 kgs of ganja worth



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Rs.2,40,000/- has been seized. A case has been registered against the accused. The respondent-Police after conducting investigation, submitted the charge sheet. The appellants after facing the trial, they have been acquitted.

4. The submission of the learned High Court Government Pleader for the appellant-State is that the Trial Court has committed a grave error in rendering the acquittal, which is contrary to the evidence on record.

5. It is further submitted that the Trial Court has not appreciated the evidence of P.Ws.1 and 2. Consequently, the impugned judgment has been passed, which is liable to be set aside. Making such submissions, learned High Court Government Pleader prays to allow the appeal.

6. *Per contra*, learned counsel for respondent No.1 vehemently justified the judgment of acquittal passed by the Trial Court and prays to dismiss the appeal.



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7. Having heard the learned counsel for the respective parties and on perusal of the findings of the Trial Court, the case of the prosecution is that accused Nos.1 to 5 were found in possession of 24 kgs of ganja in 5 different bags. Out of the same, 9 kgs of ganja was stored in an auto rickshaw bearing registration No.KA-10-A-3596 and the said auto was parked in front of the house of accused No.1. It is further contended that accused Nos.2 and 3 who were present in the auto rickshaw, on seeing the Police, ran away from the place.

8. The Trial Court while appreciating the factual matrix of the case, opined that allegations against accused Nos.4 and 5 has not been made out and hence, they have been acquitted. However, the respondent-Police registered a case against them stating that they were present in the auto rickshaw.

9. The Trial Court while appreciating the evidence of P.W.1 opined that, though accused Nos.2 and 3 who



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were present in the auto ran away from the spot on seeing the Police, the Investigating Officer has not bothered to conduct identification to establish their identity. Further, the Trial Court observed that the Investigating Officer has not collected any documents with respect to the auto to further prove that the auto belongs to accused No.3.

10. The Trial Court adverted even on the manner in which the alleged contraband has been seized by the Investigating Officer and opined that the contraband brought before the Trial Court was not in a sealed condition, even M.Os.6 to 9 - mobile phones were also not in a sealed condition. Moreover, no inventory has been done in respect of the seized articles/contraband.

11. The Trial Court having considered each and every aspect, opined that the prosecution has failed to prove the case beyond reasonable doubt in respect of alleged possession of contraband by accused Nos.1 to 5. Therefore, in my considered view, the findings of the Trial



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Court are proper and correct. Hence, the interference with the said findings may not be necessary.

12. Hence, I proceed to pass the following:

ORDER

The appeal stands ***dismissed***.

**Sd/-
(S RACHAIAH)
JUDGE**

NR
List No.: 2 Sl No.: 1