



CNR: KAHC010491992026

NC: 2026:KHC:46888
CRL.P No. 10673 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 10673 OF 2026

BETWEEN:

SANTHOSH @ ISHU,
S/O ANNADHORAI,
AGED ABOUT 32 YEARS,
R/AT NO.132, NANJUNDAPPA LAYOUT,
MANGAMMANAPALAYA,
BOMMANAHALLI (POST),
BENGALURU – 560 068.

...PETITIONER

(BY SRI. MUNEGOWDA M., ADVOCATE)

AND:

1. THE STATION HOUSE OFFICER,
MADIWALA POLICE STATION,
MADIWALA, HOSUR MAIN ROAD,
BENGALURU DISTRICT - 560 068.
REPRESENTED BY S.P.P.,
HIGH COURT BUILDING,
BENGALURU – 01.
2. SRI.M. MANJUNATH,
AGED ABOUT 38 YEARS,
S/O. MUNIRAJU,
R/AT. NEAR AMBEDKAR STATUE,
YELLUKUNTE VILLAGE,
HSR LAYOUT,

Digitally
signed by
CHETAN B C
Location:
High Court of
Karnataka



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MANGAMMANAPALYA,
BENGALURU DISTRICT - 560 068.

...RESPONDENTS

(BY SMT.WAHEEDA M.M., HCGP FOR R1)

THIS CRL.P. IS FILED U/S 482 CR.PC (FILED U/S 528 BNNS) PRAYING TO A. QUASH THE PROCEEDINGS AGAINST THIS PETITIONER/ACCUSED NO.6 IN CR.NO.4/2013 OF MADIWALA P.S. U/S 307 R/W 34 OF IPC, WHEREAS SPLIT UP CHARGE SHEET WAS FILED FOR THE OFFENCES P/U/S 307, R/W 34 OF IPC IN SC NO.1500/2021 NOW PENDING BEFORE LXVIII ADDL.CITY CIVIL AND SESSIONS JUDGE BENGALURU CITY (CCH-69) BENGALURU CITY AND ETC.,

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

The petitioner - accused No.6 is before this Court calling in question the continuance of proceedings in S.C.No.1500/2021 for the offence punishable under Section 307 read with Section 34 of the IPC.



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2. Heard Sri. Munegowda M., learned counsel appearing for the petitioner, Smt. Waheeda M.M., learned HCGP appearing for respondent No.1.

3. Facts in brief, germane, are as follows:

The petitioner gets embroiled in a crime in Crime No.04/2013 for offences punishable under the afore-mentioned sections. The police conduct investigation and file a charge sheet for the said offences. The concerned Court acquits accused Nos.1 to 5 who are available for trial and the petitioner not being available for trial, a split charge is drawn against him in S.C.No.1500/2021, which is now hanging on the head of the petitioner.

4. Learned counsel appearing before the petitioner submits that the reasons that went into acquitting accused Nos.1 to 5 would become straight away applicable to the petitioner as well. If it is a collective act, the learned counsel submits that the petitioner cannot be singled out for a different treatment.



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5. Learned HCGP would however refute the submissions contending that the petitioner has escaped trial. Therefore, he must be directed to face trial and come out clean like accused Nos.1 to 5 and would seek dismissal of the petition.

6. I have given my anxious consideration to the respective submissions made by the learned counsel and have perused the material on record.

7. The afore-narrated facts are not in dispute. The issue before this Court relates to the offences punishable under Section 307 read with 34 of the IPC. The allegation is that all the accused together indulge in the commission of the offence. The concerned Court answering the prosecution's allegations, acquits accused Nos.1 to 5, who were available for trial in the order dated 16.11.2026 passed in S.C.No.1319/2105 c/w S.C.No.322/2016. The order reads as follows:

" "

REASONS

10. Points No.1 :- C.W.2 Manjunath S the complainant is examined as P.W.1. The evidence of P.W.1 is that on 01.01.2013 at 12.30 am Srinivas of their area had called him for dinner and he was proceeding to the



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house of Srinivas along with his friends C.W.1. 3. 4 and 6 and when they reached Vishnuvardhan Road, Mangammanapalya, the accused No.1 to 6 came across them and told that they have been waiting for him since many days and accused No.1 stabbed him on his stomach with knife. He sustained bleeding injuries. The other accused held him when accused No.1 stabbed him. When he shouted for help accused escaped from the place. While proceeding the accused threatened him of his life. His friends took him to Ashwath Hospital near Silk Board and the doctor told them to take him to St. Johns hospital and he was taken to St. Johns hospital. Thereafter the doctor advised him to go to Manipal hospital and therefore he was taken to Manipal hospital. He was admitted in the hospital for about 20-25 days as in-patient and underwent surgery. Accused No.1 had previous ill-will with his family and in that connection accused No.1 has stabbed him with intend to murder him. In this connection C.W.1 his friend has given complaint to the police. Due to the grievous injury sustained by him he is unable to consume food as usual He was cross examined by accused No.4 and not by the other accused persons. In the cross examination it is elicited that Srinivas has not invited the accused persons for dinner. Accused No.4 is related to P.W.1. Another criminal case is pending against Ramu the relative of accused No.4. in which C.W.1 is the witness. Except suggesting that accused No.4 has not assaulted him and a false complaint has been given, nothing is elicited by accused No.4 in the cross examination of P.W.4.

11. P.W.1 was recalled at the instance of other accused persons. However in spite of repeated issuance of process and coercive steps taken to secure him. P.W.1 could not be secured and direction to the prosecution to keep P.W.1 present was also not complied. Hence further cross examination of P.W.1 was taken as nil as not AND tendered for cross examination.

12. C.W.1 Manjunath the complainant is examined as P.W.7. According to him in the year 2013 when he had gone to the police station, in connection with the assault on C.W.2 the police obtained his signature to the complaint Ex.P.6 C.W.2 had sustained injuries to his stomach and he was admitted to Manipal hospital.



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Somebody has stabbed C.W.2 on his stomach. When he affixed his signature to Ex.P.6 police also obtained his signature to the spot mahazar Ex.P.1. He is not aware of contents of Ex.P.1 and 6. He was treated as hostile by the prosecution and in the cross examination he denied accompanying C.W.2 and other friends to the house of Srinivas for dinner and the accused coming across them and stabbing C.W.2 with a knife and other accused holding C.W.2 when accused No.1 stabbed C.W.2. He denied taking C.W.2 to the hospital along with his other friends and police conducting mahazar as per Ex.P.1 at the place of incident. Hence P.W.7 being the complainant and who is the friend of the victim C.W.2 has not supported the prosecution case.

13. C.W.3 Harish and C.W.4 Sunil who had accompanied C.W.1 and 2 to the house of Srinivas for the new year party have been examined as P.W.5 and 6. Both have completely turned hostile denying the occurrence of the incident and the accused No.1 stabbing C.W.2 with a knife and involvement of the other accused and have been given statement before the police as per Ex.P.3, 4 and 5. P.W.5 and 6 being eye witness to the incident have not been supported the prosecution case.

14. C.W.6 Dilip who is eye witness to the incident is examined as P.W.4. According to him on 31.12.2012 at about 12.30 am i.e. on 01.01.2013 he was proceeding along with C.W.1, 2, 3 and 5 to the house of Srinivas for the new year dinner. When they reached in front of Amman Store the accused came across and restrained them from moving further. Immediately accused No.1 took knife and stabbed C.W.2 below his left chest and ran away from the said place, C.W.2 had sustained bleeding injuries, C.W.3 informed the mother of C.W.2 over phone about the incident. The police and C.W.2 came to the spot and took him to Ashwath hospital. As per the advise of doctor C.W.2 was taken to St. Johns hospital, thereafter to Manipal hospital. C.W.2 has taken treatment as in-patient for about 15 days. He has also identified the knife used by the accused No.1 to stab C.W.2 as per M.O.1. Though P.W.4 has supported the prosecution case in the chief examination when he was recalled for cross examination he has turned hostile. He has not gone to the house of Srinivas for new year dinner party along with



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C.W.1 and 2 and his friends. He has not seen the accused assaulting C.W.2 with knife. The evidence given by him in the examination in chief that they were proceeding to the house of Srinivas for dinner and accused No.1 stabbed C.W.2 and witnessing the incident is not true. Police have not seized M.O.1 in his presence. Hence the prosecution has cross examined P.W.4. wherein he denied all the suggestions put to him. He further states that police had asked him to give evidence as per the statement under Sec. 161 of Cr.P.C given before the police and accordingly he has deposed in examination in chief. According to him he was at home and sleeping at the time of incident. Hence the evidence of P.W.4 though he has supported in the examination-in-chief cannot be taken into consideration and is not worth believable in view of the hostile evidence during cross examination.

15. C.W.7 Shankarappa the father of victim C.W.2 and C.W.8 Pillamma the mother of victim are examined as P.W.9 and 3 respectively. Both have deposed that Srinivas had invited their son for dinner. On 01.01.2013 at about 12.30 am C.W.2 was proceeding along with C.W.1.3 to 5 to the house of Seenappa for dinner. C.W.3 came and informed them that the accused came and stabbed C.W.2 their son and he sustained bleeding injury and immediately they rushed to Vishnuvardhan Road, scene of occurrence and they found that C.W.2 has sustained grievous injury and they took him to Ashwath hospital and on the suggestion of the doctor he was sent to St.Johns hospital and thereafter to Manipal hospital and he was treated as inpatient. Both P.W.3 and 9 are not eye witnesses to the incident. On hearing about the assault on their son Manjunath they have gone to the scene of occurrence and taken him to the hospital. In the cross examination it is suggested that there is previous ill will or dispute over 1 acre 20 guntas of land situated at HSR layout between their family and the family of accused No.1 and both have denied the property dispute.

16. C.W.9 is hear say witness. C.W.9 is examined as P.W.2. According to him he heard about the assault on C.W.2 and the injuries sustained by CW.2. On hearing the occurrence he rushed to Vishnuvardhan Road at Mangammanapalya and found that P.W.1 had



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sustained grievous injuries and P.W.1 was taken to the hospital. C.W.1 informed him that accused stabbed C.W.2 with knife. He is also witness to the spot mahazar Ex.P.1. He admits that he has not witnessed the incident. The police could not collect any blood stained mud or any traces from the spot as the scene of occurrence is a public road where there is movement of vehicles and public. P.W.2 is also questioned with regard to the property dispute between the family of P.W.1 and accused. P.W.2 had not gone to the house of Srinivas for dinner. Hence the evidence of P.W.2 is of no help.

17. C.W.13 Dr.P.N.Prakash the medical officer who treated P.W.1 at Manipal hospital is examined as P.W.8. The evidence of P.W.8 is that on 01.01.2013 at 2.00 am P.W.1 was brought to the hospital with the history of assault. On examination he found stab injury over the right side of umbilicus with lower loops hernia at up out with multiple jejunum peritoneum and mesenteric tear. The injury is grievous in nature. Wound was open and the intestine had come out. He was treated as in-patient till 17.01.2013. Accordingly he has issued wound certificate as per Ex.P.8. On 27.03.2013 the police have taken the weapon M.O.1 to him seeking his opinion and after verifying the wound sustained by P.W.1 and the knife he has opined that the injury mentioned in Ex.P.8 could be caused with M.O.1 knife. Accordingly he has given his opinion as per Ex.P.9. It is his cross examination that injured was taken to St. Johns hospital before coming to the Manipal hospital. He does not know about P.W.1 taking treatment at any other hospital. He has not treated P.W.1. He has issued wound certificate as per the MLC register. He has not stated in the wound certificate as to whether the injury was straight or cross injury. At the instance of police he has issued Ex.P.8 and 9 by creating the same. Further he denied the suggestions that without seeing the discharge summary he has issued Ex.P.8. P.W.8 has stated about the injury sustained by P.W.1 the victim which is grievous in nature and opinion regarding the weapon. However his cross examination creates suspicion with regard to the issuance of Ex.P.8 and 9. His evidence could be believed as P.W.1 also state that he had sustained grievous injuries to his stomach due to stab injury caused by accused No.1. Hence medical



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evidence supports the evidence of P.W.1 as regard the injury sustained by him.

18. C.W.14 Raghavendra.P the police official is examined as P.W.10. He has arrested accused No.5 and 6 and has produced him before the IO.

19. C.W.17 Srinivas G.T the IO is examined as P.W.11. He has deposed about the investigation conducted by him. He has recorded the statement of C.W.1 the complainant on 01.01.2013 at about 2.45 am, as per Ex.P.6, registered the case and forwarded the FIR to the court as per Ex.P.11. Between 5.30 and 6.15 am he has conducted the spot mahazar as per Ex.P.1. He has recorded the statement of witnesses after arrest of accused No.5 and 6 and further statement of eye witnesses. He has visited Manipal hospital and the victim was not in a position to give statement. Even on the subsequent visits the victim was not in a position to give statement. He has also sent his staff to find out whether the victim is in a position to give statement and even then the victim was not in a position to give statement. After the discharge of the victim P.W.1 had gone to the station and he has recorded his statement. After arrest of accused No.1 he has seized M.O.1 knife from the house of accused No.1 at his instance under Ex.P.13 the seizure mahazar. He does not state about any blood stains on M.O.1 and the same is not sent to FSL but he has sent M.O.1 to the doctor P.W.8 and taken his opinion. According to P.W.11 he did not find any material evidence of a new year party near the house of Srinivas such as pendal etc. Even at the scene of occurrence there was no evidence of such occurrence as it was a public road with movement of vehicles and public. He has not obtained the wound certificate from Ashwath hospital and St.Johns hospital for having taken treatment at the said hospital by P.W.1 initially. He also could not get any CCTV footage from near the scene of occurrence to prove the presence of accused persons and assault committed by accused No.1 to P.W.1

20. From the evidence of P.Ws.1 to 11 though P.W.1 the victim supports the prosecution case he did not tender for further cross examination by accused No.1 to 3 and 5. The eye witnesses P.W.5 to 7 have turned hostile.



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P.W.2 and 4 are hear say witnesses. P.W.3 and 9 are the parents of P.W.1 who also heard about the injury sustained by P.W.1 and taken them to the hospital for treatment. The injuries sustained by P.W.1 is supported by medical evidence. Except medical evidence there is corroborative and cogent evidence to believe that it is the accused No.1 who stabbed P.W.1 and accused Nos.2 to 6 held P.W.1 when accused No.1 stabbed P.W.1 Even the previous enmity between the family of P.W.1 and the accused have not been proved to prove intention of accused persons. The very identity of accused persons is not proved and therefore the prosecution has failed to prove that the accused No.1 with an intention to cause murder of P.W.2 caused grievous injuries by stabbing him with M.O.1 knife along with other accused. Therefore, the prosecution has failed to prove the guilt of accused beyond reasonable doubt. Accordingly point is answered in the Negative.

21. Point No.2:- In view of my findings on point No.1, I proceed to pass the following:-

ORDER

Acting under Section 235(1) of Cr.P.C., the accused No.1 to 5 are acquitted of the offence punishable under Section 307 R/w 34 of IPC.

The records and M.O.1 are ordered to be retained for split up case against accused No.6.

Bail bond and Surety bond stands cancelled.

Sd/-
16/11/2021
(K.G.Chintha,)
LVI Addl. City Civil & Sessions
Judge, Bangalore"

The reason so rendered by the concerned Court is that the prosecution has miserably failed to prove the guilt beyond all reasonable doubt. If that be the case against accused Nos.1 to



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5 for passing an order of acquittal, it cannot be said that the petitioner would get convicted, if a trial is permitted on the same set of evidence.

8. The view of mine, in this regard, is fortified by the judgment rendered by a Co-ordinate Bench of this Court in Crl.P.4796/2017, wherein the Co-ordinate Bench considering identical set of facts has held as follows:

"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



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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 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."



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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 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.

15. It is in this background, trial Court on appreciation of entire evidence had acquitted all the accused persons by holding that prosecution had



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failed to prove the offence alleging accused persons beyond reasonable doubt attracting the ingredients of provisions of the offence alleged against them. In fact, Sessions Court has observed that there was certain communal disturbance in Dakshina Kannada district and other places at Bantwal Taluk and to please on community of people, the Investigating Officer might have falsely implicated the accused persons in a false case or to avoid the blame to be received from the public or other community people and such possibilities cannot be ruled out. In this background, when prayer of petitioner sought for in the present petition is examined, it can be noticed that contents of supplementary charge sheet filed against the petitioner is similar, identical and in fact, it is replica of charge made against accused Nos.1 to 23 and 25 to 33, who¹⁵ were tried in S.C.No.12/2007, 94/2007 and 26/2008 and had been acquitted.

16. In that view of the matter, this Court is of the firm view that judgment rendered by trial Court insofar as it relates to accused Nos.1 to 23 and 25 to 33 is similar and identical to the charge made against the present petitioner. This Court does not find any independent or separate material having been placed by the prosecution against present petitioner to put him on trial once again and directing the petitioner-accused to undergo the order of trial, which ultimately would fetch same result as that of accused Nos.1 to 23 and 25 to 33. When allegation made against accused Nos.1 to 23 and 25 to 33 is compared with the allegation made against present petitioner, it has to be necessarily held that they are identical, similar and inseparable in nature and no independent decision can be taken against the present petitioner. Therefore, no purpose would be served even if the present petitioner is ordered to be tried by the trial Court.



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17. In view of the afore stated 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** where under 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 "**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.

18. In that view of the matter, present proceedings initiated against petitioner is liable to be quashed.

Hence, I proceed to pass the following:

ORDER

(i) Criminal petition is hereby allowed.



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(ii) Proceedings in C.C.No.1170/2007 pending on the file of Addl. Civil Judge & JMFC, Bantwal, in Cr.No.130/2006 registered by Bantwal Rural Police Station, is hereby quashed insofar petitioner is concerned.

In view of criminal petition having been disposed of on merits, I.A.No.1/2017 for stay does not survive for consideration and same stands rejected."

The Co-ordinate Bench was considering a case where the co-accused who had escaped trial, had not surrendered or was not arrested by the police.

9. In the light of there being no evidence against any of the accused Nos.1 to 5, the split up charge against the petitioner being tried now before the learned Sessions Judge would become an exercise in futility. Therefore, to save the precious judicial time, I deem it appropriate to exercise the jurisdiction under Section 482 of Cr.P.C. and obliterate the the charges against the petitioner.

10. For the aforesaid reasons, I pass the following:

ORDER

- i. Criminal Petition is **allowed**.
- ii. Proceedings in S.C.No.1500/2021 pending before the LXVIII Additional City Civil and Sessions Judge,



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Bengaluru City (CCH-69), stand quashed, *qua* the petitioner.

- iii. Consequently, pending applications if any, also stand disposed.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

SJK
List No.: 1 Sl No.: 14