



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. 620 OF 2023 (A-)

BETWEEN:

1. J KANAKA RAO
S/O LATE JAGANNIKULU
AGED ABOUT 64 YEARS
R/AT SRIHARI NIVAS
COCONUT GARDEN LAYOUT
1ST B MAIN
KODIGEHALLI MAINROAD
K R PURAM
BENGALURU 560 036

...APPELLANT

(BY SRI. ADARSH D N FOR SRI NARESH KUMAR P C.,
ADVOCATE)

AND:

1. KUPPILI SRINU
S/O THAUDU
R/AT NO.9-6-63/1/5
TF-401 D PYADAYYA ENCLAVE
SHIVAJIPALEM
VISHAKAPATTANAM
ANDRA PRADESH 530 017

...RESPONDENT

(V/O DATED 11.02.2026 NOTICE TO RESPONDENT IS
DISPENSED WITH)

CRL.A FILED U/S.378(4) CRPC (U/S 419(4) BNSS) BY
THE ADVOCATE FOR THE APPELLANT/S PRAYING THAT THIS
HONBLE COURT MAY BE PLEASED TO PERSUADE AND SET
ASIDE THE ORDER DATED 11.01.2019 PASSED BY THE

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka



HON'BLE LVII ADDITIONAL CHIEF METROPOLITAN
MAGISTRATE BENGALURU IN C.C.NO.50220/2018.

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 11.01.2019 passed by the LVII Additional Chief Metropolitan Magistrate, Bangalore in CC No.50220/2018.

2. The appellant has filed complaint under Section 138 of N.I Act. After taking cognizance, case was registered in CC.No.50220/2018. That on 06.01.2018, the trial Court has passed an order to issue summons to the accused through Court, RPAD and by hand, if PF and postage paid within 7 days. Thereafter, case was being adjourned from time to time till 11.01.2019. On 11.01.2019, the trial Court passed the following order:

"Complainant called out absent. No representation. The case is again called at 03-35 p.m. The Complainant absent. No representation since from the time of taking cognizance of the case. the Complainant remained absent no steps has taken by him to secure the presence of the accused. Even at the first instance, though this court ordered to issue summons to



accused through RPAD, court, and the Complainant has not paid P.F.

As per section 204(4) of Cr.PC the Complaint is liable to be dismissed if PROCESS FEE has been not paid within the reasonable time as ordered by the court. In this case till this date the Complainant remained absent and even there is no representation when the case is called out.

Section 256 of Cr.PC mandates the presence of Complainant before the court to proceed with the case otherwise, the accused is liable to be acquitted. Continuous absence of the Complainant shows that he is not interested in prosecuting this case. Hence the following:

ORDER

Complaint is dismissed for default."

3. It is submitted by the Learned counsel for the appellant that the appellant was unable to contact his regular counsel from 06.01.2018 till filing of this appeal. Due to ill-health and death of regular counsel for the appellant, the appellant could not get information about the proceedings of this case.

4. Considering the submission made by the learned counsel for the appellant, it is just and proper to allow this appeal. Hence, I proceed to pass the following :



ORDER.

- i. Appeal is ***allowed***.
- ii. The impugned order dated 11.01.2019 passed by the LVII Additional Chief Metropolitan Magistrate, Bangalore CC.No.50220/2018 is ***set aside***.
- iii. The CC.No.50220/2018 shall be restored to file.
- iv. The complainant is directed to appear before the trial Court without seeking any further notice from the trial Court on 24.03.2026.
- v. The trial Court is directed to take necessary steps to issue summons to the accused. Thereafter, the trial Court shall proceed with the case in accordance with law.

The Registry is directed to send the copy of this order to the trial Court.

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

RJ
List No.: 1 Sl No.: 9