



CNR: KAHC010515852026

NC: 2026:KHC:46992
CRL.P No. 11324 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. 11324 OF 2026

BETWEEN:

1. ABOOBAKKAR SIDDIQ @ KARPIL SIDDIQ
S/O. ABBULLA
AGED ABOUT 42 YEARS
R/AT PALLAM HOUSE, PYEVALIKE
KASORGUD, KERALA-671438.

...PETITIONER

(BY SRI. SYED ARIF PASHA, ADVOCATE FOR
SRI. LETHIF .B, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY
KANKANADY TOWN POLICE STATION
D.K. DISTRICT, REP. BY SPP
HIGH COURT BUILDING, BANGALORE- 560001.
2. J. SURENDRA
S/O LATE LINGAPPA POOJARY
AGED ABOUT 57 YEARS
R/AT D NO. 2-45, BEEDI HALE
JAPPINAMOGARU, MANGALURU
D.K DISTRICT - 575007

...RESPONDENTS

(BY SMT. RASHMI PATEL, HCGP FOR R1)



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THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS IN CC.NO.1187/2025 FOR THE OFFENCES P/U/S 379, 411, 414 OF IPC AND SECTIONS 4, 5, 7, 8, 9, 11, 12 OF KARNATAKA PREVENTION OF COW SLAUGHTER AND CATTLE PREVENTION ACT, PENDING BEFORE THE JMFC VI COURT, D.K REGISTERED BY KANKANADY TOWN P.S., PRODUCED AT ANNEXURE-D.

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

The petitioner is said to be accused No.2 is before this Court calling in question the continuance of proceedings in C.C.No.1187/2025 for offences punishable under Sections 379, 411 and 414 of the IPC and Sections 4, 5, 7, 8, 9, 11 and 12 of the Karnataka Prevention of Cow Slaughter and Cattle Prevention Act.

2. Heard Sri.Syed Arif Pasha, learned counsel for Sri.B.Lethif, learned counsel appearing for the petitioner, Smt.Rashmi Patel, learned HCGP appearing for respondent No.1 and have perused the material on record.



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

The petitioner gets embroiled in a crime in Crime No.165/2017 for offences punishable as afore-quoted. The police conduct investigation and file a charge sheet for the offences again as afore-quoted. The concerned Court acquits accused Nos.1, 3, 5 and 6, who are available for trial and the petitioner not being available for trial, a split charge is drawn against him in C.C.No.1187/2025, which is now hanging on the head of the petitioner.

4. Learned counsel appearing for the petitioner submits that the reasons that went into acquitting the other accused would become straight away applicable to the petitioner as well, as the offence is one relate to theft of cattle and transportation, sale or purchaser of cattle under Sections 379, 411 and 414 of the IPC and Sections 4, 5, 7, 8, 9, 11 and 12 of the Karnataka Prevention of Cow Slaughter and Cattle Prevention Act. 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 the other accused 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 the Court relates to the offences punishable under Sections 379, 411 and 414 of the IPC and Sections 4, 5, 7, 8, 9, 11 and 12 of the Karnataka Prevention of Cow Slaughter and Cattle Prevention Act, which is the offence relate to theft of cattle and transportation, sale or purchaser of cattle. The allegation is that all the accused together did indulge in theft of cattle and transportation, sale or purchaser of cattle. The concerned Court answering the prosecution's allegations, acquitted all the other accused, who were available for trial on the following reasons:

"13. ಅಂಶ ಸಂಖ್ಯೆ - 1 ರಿಂದ 4 :- ಈ ಮೇಲ್ಕಂಡ 1 ರಿಂದ 4 ನೇ ಅಂಶಗಳು ಒಂದಕ್ಕೊಂದು ಪೂರಕವಾಗಿರುವುದರಿಂದ ಮತ್ತು ಒಂದರ ಅಂಶದ ಮೇಲಿನ ಚರ್ಚೆಯು



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ಉಳಿದ ಮೂರು ಅಂಶಗಳಲ್ಲಿನ ಚರ್ಚೆಯಲ್ಲಿ ಪುನರಾವರ್ತನೆಯಾಗುವ ಕಾರಣಕ್ಕಾಗಿ ಸದರಿ ಅಂಶಗಳನ್ನು ಒಟ್ಟಿಗೆ ಚರ್ಚೆಗೆ ತೆಗೆದುಕೊಳ್ಳಲಾಗಿದೆ.

14. ಈ ಪ್ರಕರಣದಲ್ಲಿ ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಮಾಡಿರುವ ಆರೋಪಗಳನ್ನು ನಿಷ್ಪಂದೇಹವಾಗಿ ರುಜುವಾತುಪಡಿಸುವ ಹೊಣೆಗಾರಿಕೆ ಅಭಿಯೋಜನಾ ಪಕ್ಷದವರ ಮೇಲಿರುತ್ತದೆ. ಅದಕ್ಕಾಗಿ ಅಭಿಯೋಜನೆಯು ದೂರುದಾರರಾದ ಚಾ.ಸಾ.1, ಪ್ರತ್ಯಕ್ಷ ಸಾಕ್ಷಿದಾರರಾದ ಚಾ.ಸಾ.2 ಮತ್ತು 3 ರವರನ್ನು ಪ್ರಾ.ಸಾ.1 ರಿಂದ ಪ್ರಾ.ಸಾ.3 ಎಂದು ವಿಚಾರಣೆಗೊಳಪಡಿಸಿದ್ದು, ನಿ.ಪಿ.1 ರಿಂದ ನಿ.ಪಿ.6 ಎಂಬ ದಾಖಲೆಗಳನ್ನು ಗುರುತಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.

15. ಈ ಪ್ರಕರಣದ ದೂರುದಾರರಾದ ಚಾ.ಸಾ.1 ಸುರೇಂದ್ರ ಬಿನ್ ಲಿಂಗಪ್ಪ ಪೂಜಾರಿ ರವರನ್ನು ಪ್ರಾ.ಸಾ.1 ಎಂದು ವಿಚಾರಣೆಗೊಳಪಡಿಸಿದ್ದು, ತಮ್ಮ ಮುಖ್ಯ ವಿಚಾರಣೆಯಲ್ಲಿ ನ್ಯಾಯಾಲಯ ಮುಂದಿರುವ ಆರೋಪಿಗಳನ್ನು ಈ ಹಿಂದೆ ಎಲ್ಲಿಯೂ ನೋಡಿರುವುದಿಲ್ಲ. ನನ್ನ ದನವನ್ನು ಯಾರು ಕಳ್ಳತನ ಮಾಡಿರುವುದಿಲ್ಲ. ನಾನು ಪೊಲೀಸರಿಗೆ ಯಾವುದೇ ದೂರನ್ನು ನೀಡಿರುವುದಿಲ್ಲವೆಂದು ನುಡಿದಿರುತ್ತಾರೆ. ಸಾಕ್ಷಿಯು ದೂರು ಮತ್ತು ಸ್ಥಳ ಮಹಜರ್ ಗಳಲ್ಲಿರುವ ತನ್ನ ಸಹಿಗಳನ್ನು ನೋಡಿ ಗುರುತಿಸಿದ್ದು, ದೂರನ್ನು ನಿಪಿ 1 ಎಂದು, ಸ್ಥಳ ಮಹಜರನ್ನು ನಿಪಿ 2 ಎಂದು, ಸದರಿ ದಾಖಲೆಗಳಲ್ಲಿರುವ ಸಾಕ್ಷಿಯ ಸಹಿಗಳನ್ನು ನಿಪಿ1(ಎ), ನಿಪಿ2(ಎ) ಎಂದು ಗುರುತಿಸಲಾಗಿರುತ್ತದೆ. ಸದರಿ ದಾಖಲೆಗಳಲ್ಲಿ ಏನು ಬರೆಯಲಾಗಿದೆಯೆಂದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ನನ್ನ ಸಮಕ್ಷಮ ಯಾವುದೇ ಮಹಜರ್ ಮಾಡಿರುವುದಿಲ್ಲ. ನ್ಯಾಯಾಲಯದ ಮುಂದಿರುವ ಆರೋಪಿಗಳನ್ನು ರಾಣೆಯಲ್ಲಿ ನೋಡಿರುವುದಿಲ್ಲ. ಸದರಿ ವಿಷಯದ ಬಗ್ಗೆ ನಾನು ಪೊಲೀಸರಿಗೆ ಯಾವುದೇ ಮರುಹೇಳಿಕೆಯನ್ನು ನೀಡಿರುವುದಿಲ್ಲವೆಂದು ನುಡಿದಿರುತ್ತಾರೆ.

16. ಮಾನ್ಯ ಸಹಾಯಕ ಸರ್ಕಾರಿ ಅಭಿಯೋಜಕರು ನ್ಯಾಯಾಲಯದ ಅನುಮತಿ ಮೇರೆಗೆ ಪ್ರಾ.ಸಾ.1 ರವರನ್ನು ಅಭಿಯೋಜನಾ ಪ್ರಕರಣಕ್ಕೆ ಪ್ರತಿಕೂಲ ಸಾಕ್ಷಿಯೆಂದು ಪರಿಗಣಿಸಿ ಪಾಟೀ ಸವಾಲು ಮಾಡಲಾಗಿದ್ದು, ತಮ್ಮ ಪಾಟೀ ಸವಾಲಿನಲ್ಲಿ ಅಭಿಯೋಜಕರು ದಿನಾಂಕ 19.05.2017 ರಂದು ರಾತ್ರಿ 12.45 ಗಂಟೆಗೆ ನಿಮ್ಮ ಮನೆಯ ಹೆಚ್ಚಿಯಲ್ಲಿ ಕಟ್ಟಿರುವ ದನವನ್ನು ವಧೆ ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ಯಾರೋ ಕಳವು ಮಾಡಿಕೊಂಡು ಕಾರಿನಲ್ಲಿ ತೆಗೆದುಕೊಂಡು ಹೋಗಿರುವ ಬಗ್ಗೆ ನೀವು ಪೊಲೀಸರಿಗೆ ನಿಪಿ-1 ರಂತೆ ದೂರನ್ನು ನೀಡಿದ್ದು, ಅದೇ ದಿನ ನೀವು ತೋರಿಸಿದ ಘಟನಾ ಸ್ಥಳವನ್ನು ಪೊಲೀಸರು ಚಾಸಾ 2 ಮತ್ತು 5 ರವರ ಸಮಕ್ಷಮದಲ್ಲಿ ಮಧ್ಯಾಹ್ನ 12.30 ರಿಂದ 01.00



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ಗಂಟೆಗೆ ನಿಪಿ-2 ರಂತೆ ಮಹಜರ್ ಮಾಡಿದ್ದು, ನೀವು ಸದರಿ ದಾಖಲೆಗೆ ಸಹಿ ಮಾಡಿದ್ದು, ದಿನಾಂಕ 30.07.2018 ರಂದು ಪೊಲೀಸರು ನಿಮ್ಮನ್ನು ರಾಣೆಗೆ ಬರಲು ತಿಳಿಸಿದ್ದು, ಅದರಂತೆ ನೀವು ಮತ್ತು ಚಾಸಾ 2 ರವರು ರಾಣೆಗೆ ಹೋದಾಗ, ರಾಣೆಯಲ್ಲಿ 1, 2, 5 ನೇ ಆರೋಪಿಗಳಿದ್ದು, ಅವರನ್ನು ನೋಡಿ ಗುರುತಿಸಿದ್ದು, ಸದರಿ ವಿಚಾರದ ಬಗ್ಗೆ ಅದೇ ದಿನ ಮರುಹೇಳಿಕೆಯನ್ನು ನೀಡಿರುತ್ತೀರ ಎಂದು ಸೂಚಿಸಿದಾಗ ಸಾಕ್ಷಿಯು ಅಭಿಯೋಜಕರು ಸೂಚಿಸಿರುವ ಎಲ್ಲಾ ಸೂಚನೆಗಳನ್ನು ಅಲ್ಲಗಳೆದಿರುತ್ತಾರೆ. ಸಾಕ್ಷಿಯು ಪೊಲೀಸರಿಗೆ ನೀಡಿರುವ ಮರುಹೇಳಿಕೆಯನ್ನು ಸಂಪೂರ್ಣವಾಗಿ ಸಾಕ್ಷಿಗೆ ಓದಿ ಹೇಳಿದ್ದು, ಮರುಹೇಳಿಕೆಯಲ್ಲಿರುವ ವಿಷಯಗಳನ್ನು ಸಾಕ್ಷಿಯು ಅಲ್ಲಗಳೆದಿರುವ ಕಾರಣ ಸದರಿ ಮರುಹೇಳಿಕೆಯನ್ನು ನಿಪಿ3 ಎಂದು ಗುರುತಿಸಲಾಗಿರುತ್ತದೆ. ಅಭಿಯೋಜನೆಯ ಪಾಟೀ ಸವಾಲಿನಲ್ಲಿಯೂ ಸಹಾ ಅಭಿಯೋಜನಾ ಪರ ಯಾವುದೇ ಅಂಶಗಳು ಹೊರಹೊಮ್ಮಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಅಭಿಯೋಜನೆಯು ನಿ.ಪಿ.1 ನ್ನು ನಿರುಪಿಸಿಲ್ಲವೆನ್ನುವ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಈ ನ್ಯಾಯಾಲಯವು ಬಂದಿರುತ್ತದೆ.

17. ಸದರಿ ಪ್ರಕರಣದ ಪ್ರತ್ಯಕ್ಷ ಸಾಕ್ಷಿದಾರರಾದ ಚಾ.ಸಾ.2 ಯತೀನ್ ಬಿನ್ ರತ್ನಾಕರ ರವರನ್ನು ಪ್ರಾ.ಸಾ.2 ಎಂದು ಮತ್ತು ಚಾಸಾ3 ಕಿರಣ್ ಬಿನ್ ಲಿಂಗಪ್ಪ ಪೂಜಾರಿ ರವರನ್ನು ಪ್ರಾಸಾ3 ಎಂದು ವಿಚಾರಣೆಗೊಳಪಡಿಸಿದ್ದು, ಪ್ರಾಸಾ2 ರವರು ತಮ್ಮ ಮುಖ್ಯ ವಿಚಾರಣೆಯಲ್ಲಿ ನನಗೆ ಚಾಸಾ1 ರವರು ಗೊತ್ತು. ನ್ಯಾಯಾಲಯದ ಮುಂದಿರುವ ಆರೋಪಿಗಳನ್ನು ಈ ಹಿಂದೆ ಎಲ್ಲಿಯೂ ನೋಡಿರುವುದಿಲ್ಲ. ಈ ಪ್ರಕರಣದ ಬಗ್ಗೆ ನನಗೇನೂ ಗೊತ್ತಿಲ್ಲ. ಆರೋಪಿಗಳು ಏನು ಮಾಡಿರುತ್ತಾರೆಂದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ನಾನು ಪೊಲೀಸರಿಗೆ ಘಟನೆಯನ್ನು ನೋಡಿರುವುದಾಗಿ ಹೇಳಿಕೆಯನ್ನಾಗಲೀ ಮತ್ತು ಮರು ಹೇಳಿಕೆಯನ್ನಾಗಲೀ ನೀಡಿರುವುದಿಲ್ಲವೆಂದು ನುಡಿದಿರುತ್ತಾರೆ. ಪ್ರಾಸಾ3 ರವರು ತಮ್ಮ ಮುಖ್ಯ ವಿಚಾರಣೆಯಲ್ಲಿ ಚಾಸಾ 1 ರವರು ನನ್ನ ಅಣ್ಣ, ಚಾಸಾ 2 ರವರು ನಮ್ಮ ಮನೆ ನೆರೆಕರೆಯವರು. ನ್ಯಾಯಾಲಯ ಮುಂದಿರುವ ಆರೋಪಿತರನ್ನು ಈ ಹಿಂದೆ ಎಲ್ಲಿಯೂ ನೋಡಿರುವುದಿಲ್ಲ. ಈ ಘಟನೆಯ ಬಗ್ಗೆ ನಾನು ಯಾರು ಬಳಿಯೂ ಕೇಳಿ ತಿಳಿದುಕೊಂಡಿರುವುದಿಲ್ಲ. ಪ್ರಕರಣದ ಬಗ್ಗೆ ನನಗೇನು ಗೊತ್ತಿಲ್ಲ. ನಮ್ಮ ದನವನ್ನು ಯಾರೂ ಕಳವು ಮಾಡಿರುವುದಿಲ್ಲ. ನಾನು ಪೊಲೀಸರಿಗೆ ಘಟನೆಯ ಬಗ್ಗೆ ಹೇಳಿಕೆಯನ್ನು ನೀಡಿರುವುದಿಲ್ಲವೆಂದು ನುಡಿದಿರುತ್ತಾರೆ.

18. ಮಾನ್ಯ ಸಹಾಯಕ ಸರ್ಕಾರಿ ಅಭಿಯೋಜಕರು ನ್ಯಾಯಾಲಯದ ಅನುಮತಿ ಮೇರೆಗೆ ಪ್ರತ್ಯಕ್ಷ ಸಾಕ್ಷಿದಾರರಾದ ಪ್ರಾ.ಸಾ.2 ಮತ್ತು 3 ರವರನ್ನು ಅಭಿಯೋಜನಾ ಪ್ರಕರಣಕ್ಕೆ ಪ್ರತಿಕೂಲ ಸಾಕ್ಷಿಗಳೆಂದು ಪರಿಗಣಿಸಿ, ಪಾಟೀ ಸವಾಲಿಗೊಳಪಡಿಸಿದಾಗ, ಅಭಿಯೋಜಕರು ಸೂಚಿಸಿರುವ ಎಲ್ಲಾ ಸೂಚನೆಗಳನ್ನು ಸಾಕ್ಷಿಗಳು ಅಲ್ಲಗಳೆದಿರುತ್ತಾರೆ.



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ದಿನಾಂಕ 19.05.2017 ರಂದು ಪ್ರಾ.ಸಾ.2 ರವರು ಪೋಲೀಸರಿಗೆ ನೀಡಿರುವ ಹೇಳಿಕೆ ಮತ್ತು ಮರುಹೇಳಿಕೆಯನ್ನು ಹಾಗೂ ಪ್ರಾ.ಸಾ.3 ರವರು ಪೋಲೀಸರಿಗೆ ನೀಡಿರುವ ಹೇಳಿಕೆಯನ್ನು ಸಂಪೂರ್ಣವಾಗಿ ಸಾಕ್ಷಿಗಳಿಗೆ ಓದಿ, ಹೇಳಿದ್ದು, ಅವುಗಳಲ್ಲಿರುವ ವಿಷಯಗಳನ್ನು ಸಾಕ್ಷಿಗಳು ಅಲ್ಲಗಳೆದಿರುವ ಕಾರಣ ಸದರಿ ಹೇಳಿಕೆಗಳನ್ನು ನಿಪಿ4, ನಿಪಿ6 ಎಂದು ಮತ್ತು ಮರುಹೇಳಿಕೆಗಳನ್ನು ನಿ.ಪಿ.5 ಎಂದು ಗುರುತಿಸಲಾಗಿರುತ್ತದೆ. ಅಭಿಯೋಜನೆಯ ಪಾಟೀ ಸವಾಲಿನಲ್ಲಿಯೂ ಸಹಾ ಅಭಿಯೋಜನೆಗೆ ಪೂರಕವಾದಂತಹ ಯಾವುದೇ ಸಾಕ್ಷ್ಯವನ್ನು ಪಡೆದುಕೊಳ್ಳಲು ಅಭಿಯೋಜನೆಯು ವಿಫಲರಾಗಿರುತ್ತಾರೆ.

19. ದೂರುದಾರರಾದ ಪ್ರಾ.ಸಾ.1 ಮತ್ತು ಪ್ರತ್ಯಕ್ಷ ಸಾಕ್ಷಿದಾರರಾದ ಪ್ರಾ.ಸಾ.2 ಮತ್ತು ಪ್ರಾ.ಸಾ.3 ರವರುಗಳ ಸಾಕ್ಷ್ಯಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ಅಭಿಯೋಜನೆಗೆ ಪೂರಕವಾದಂತಹ ಯಾವುದೇ ಅಂಶಗಳು ಸದರಿ ಸಾಕ್ಷಿಗಳ ಸಾಕ್ಷ್ಯದಿಂದ ಹೊರಹೊಮ್ಮಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಸದರಿ ಸಾಕ್ಷಿಗಳು ಆರೋಪಿಗಳೊಂದಿಗೆ ರಾಜಿ ಮಾಡಿಕೊಂಡಿರುವುದಾಗಿ ಕಂಡುಬರುತ್ತದೆ. ಪ್ರಾ.ಸಾ.1 ರಿಂದ ಪ್ರಾ.ಸಾ.3 ಸಾಕ್ಷಿಗಳ ಸಾಕ್ಷ್ಯವು ಆರೋಪಿಗಳ ಮೇಲೆ ಆರೋಪಿಸಿರುವಂತಹ ಆರೋಪಗಳನ್ನು ಆರೋಪಿಗಳು ಎಸಗಿರುತ್ತಾರೆಂಬುದನ್ನು ರುಜುವಾತುಪಡಿಸಲು ಸಹಾಯಕಾರಿ ಆಗಿರುವುದಿಲ್ಲವೆಂದು ಈ ನ್ಯಾಯಾಲಯವು ಅಭಿಪ್ರಾಯಪಡುತ್ತಾ ಹಾಗೂ ಸದರಿ ಸಾಕ್ಷಿಗಳ ಸಾಕ್ಷ್ಯದಿಂದಂಟಾಗುವ ಅನುಮಾನದ ಲಾಭವನ್ನು ಆರೋಪಿಗಳಿಗೆ ನೀಡುತ್ತಾ, ಆರೋಪಿಗಳ ಮೇಲಿರುವ ಆರೋಪಗಳನ್ನು ಸಂಶಯಾತೀತವಾಗಿ ಸಾಭೀತುಪಡಿಸಲು ಅಭಿಯೋಜನೆಯು ಸಂಪೂರ್ಣವಾಗಿ ವಿಫಲರಾಗಿರುತ್ತಾರೆಂದು ಅಂಶ ಸಂಖ್ಯೆ 1 ರಿಂದ 4 ನ್ನು ನಕಾರಾತ್ಮಕವಾಗಿ ಉತ್ತರಿಸಲಾಗಿದೆ.

20. ಅಂಶ ಸಂಖ್ಯೆ - 5 :- ಮೆಲ್ಕಂಡಂತೆ ಚರ್ಚಿಸಿ ಬಂದ ನಿರ್ಣಯದಂತೆ ಈ ಕೆಳಕಂಡ ಆದೇಶವನ್ನು ಈ ನ್ಯಾಯಾಲಯವು ಮಾಡಿರುತ್ತದೆ.

ಆದೇಶ

ದಂಡ ಪ್ರಕ್ರಿಯೆ ಸಂಹಿತೆ ಕಲಂ 248(1) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾಗಿರುವ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ಆರೋಪಿಗಳ ವಿರುದ್ಧ ಮಾಡಲಾದ ಭಾರತೀಯ ದಂಡ ಸಂಹಿತೆ ಕಲಂ 379, 411, 414 ಮತ್ತು ಗೋಹತ್ಯೆ ನಿಷೇಧ ಕಾಯಿದೆ ಕಲಂ 4, 5, 7, 8, 9, 11, 12 ರ ಆರೋಪಗಳಿಂದ ಆರೋಪಿಗಳನ್ನು ಈ ಮೊಕದ್ದಮೆಯಿಂದ ದೋಷಮುಕ್ತರನ್ನಾಗಿ ಖುಲಾಸೆಗೊಳಿಸಿರುತ್ತೇನೆ.

ಆರೋಪಿಗಳು ಬರೆದುಕೊಟ್ಟಿರುವ ಜಾಮೀನು ಮುಚ್ಚಳಿಕೆಗಳನ್ನು ರದ್ದುಗೊಳಿಸಲಾಗಿದೆ.



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ದಂದ ಪ್ರಕ್ರಿಯೆ ಸಂಹಿತೆ ಕಲಂ 437(ಎ) ರಡಿಯಲ್ಲಿ ಕಾರ್ಯೋನ್ಮುಖವಾಗಿ ಆರೋಪಿಗಳು ಬರೆದುಕೊಟ್ಟಿರುವ ಮುಚ್ಚಳಿಕೆಗಳನ್ನು 6 ತಿಂಗಳುಗಳವರೆಗೆ ಜಾರಿಯಲ್ಲಿರಿಸತಕ್ಕದ್ದು.

2ನೇ ಆರೋಪಿಯಾದ ಅಬೂಬಕ್ಕರ್ ಸಿದ್ದಿಕ್ @ ಕರ್ಪಿ ಸಿದ್ದಿಕ್ ಮತ್ತು 4 ನೇ ಆರೋಪಿಯಾದ ಅಬ್ದುಲ್ ಸಲಾಂ @ ಪಾವೂರು ಸಲಾಂ ರವರನ್ನು ಈ ಪ್ರಕರಣದಿಂದ ಬೇರ್ಪಡಿಸಿದ್ದು, 2 ನೇ ಆರೋಪಿಯ ವಿರುದ್ಧ ಸಿ.ಸಿ.ಸಂಖ್ಯೆ:2752/2019 ಮತ್ತು 4 ನೇ ಆರೋಪಿಯ ವಿರುದ್ಧ ಸಿ.ಸಿ.ಸಂಖ್ಯೆ 329/2021 ಪ್ರಕರಣಗಳನ್ನು ದಾಖಲಿಸಲಾಗಿದೆ. ಆದ್ದರಿಂದ ಬೇರ್ಪಡಿಸಿದ ಪ್ರಕರಣಗಳು ಇತ್ಯರ್ಥವಾಗುವವರೆಗೂ ಈ ಪ್ರಕರಣದ ಕಡತವನ್ನು ಹಾಗೂ ಸ್ವತ್ತುಗಳನ್ನು ನಾಶಪಡಿಸತಕ್ಕದ್ದಲ್ಲ."

8. 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 the other accused 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. In that light, to save the precious judicial time, I deem it appropriate to exercise the jurisdiction under Section 482 of Cr.P.C. and obliterate the same.

9. The view of mine, in this regard, is fortified by the judgment rendered by a Co-ordinate Bench of this Court in CrI.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



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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 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."



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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



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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 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



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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.

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



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*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.

(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."



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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.

10. In the light of there being no evidence against any of the accused and the split up charge against the petitioner being tried now before the learned Sessions Judge would become an exercise in futility. In the teeth of there being no evidence or a specific charge against this petitioner, that was not charged against others, I deem it appropriate to obliterate the proceedings against the petitioner.

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

ORDER

- i. Criminal Petition is allowed.
- ii. Proceedings in C.C.No.1187/2025 pending before the JMFC VI Court, Dakshina Kannada of Kankanady Town Police Station, stand quashed, *qua* the petitioner.
- iii. Pending applications, if any, are also disposed of.

**SD/-
(M.NAGAPRASANNA)
JUDGE**