



CNR: KAHC010553092026

NC: 2026:KHC:47531
CRL.P No. 12240 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 12240 OF 2026

BETWEEN:

SRINIVAS ALIAS SHEENA,
AGED ABOUT 43 YEARS,
S/O LATE HANUMANTHAPPA,
PRESENTLY R/AT 1/1,
NAGAMMANA VATARA,
KAVI KESHARAYA ROAD,
NEAR GANESH TEMPLE,
GAVIPURA GUTTAHALLI,
VTC BANGALORE SOUTH,
PO GAVIPURAM EXTENSION,
SUB DISTRICT : BANGALORE SOUTH,
BANGALORE 560019.

CHARGESHEET ADDRESS:
NO.28/1, NEAR GANESHA TEMPLE,
NAGAMMA COMPOUND,
KAVIKESHAHA ROAD,
HANUMANTHANAGARA,
BENGALURU.

...PETITIONER

(BY SRI. KISHORE R., ADVOCATE)

Digitally
signed by
CHETAN B C

Location:
High Court
of Karnataka



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AND:

1. STATE OF KARNATAKA BY
BANASHANKARI POLICE STATION,
REPRESENTED BY ITS
STATE PUBLIC PROSECUTOR,
HIGH COURT COMPLEX,
BANGALORE - 560 001.
2. SMT. INDRA
W/O ANAND
AGED ABOUT 57 YEARS,
R/A, NO.1921, 4TH H BLOCK,
BANASHANKARI 6TH STAGE,
BYANAPALYA,
THALGATTAPURA POST,
BENGALURU CITY, KARNATAKA.

...RESPONDENTS

(BY SMT. RASHMI PATEL, HCGP FOR R1)

THIS CRL.P IS FILED U/S.482 OF CR.PC (FILED U/S 528 BNNS) PRAYING TO QUASH THE ENTIRE CRIMINAL PROCEEDINGS IN SC.NO.600/2026 PRODUCED AT ANNEXURE-A AGAINST THE PETITIONER FOR THE OFFENCES P/U/S 143, 144, 145, 147, 148, 427, 307, 120B, 302, 201, 150, 114, 35 R/W 149 OF THE IPC, 1860 REGISTERED BY BANASHANKARI POLICE STATION WHICH IS PENDING ON THE FILE OF HONBLE LXI ADDL. CITY CIVIL AND SESSION JUDGE BENGALURU CITY, (CCH-62) AS FAR AS PETITIONER IS CONCERNED.

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA



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ORAL ORDER

The petitioner is said to be accused No.11 is before this Court calling in question the continuance of proceedings in C.C.No.600/2026 registered for the offences punishable under Sections 143, 144, 145, 147, 148, 427, 307, 120B, 302, 201, 150, 114, 35 read with Section 149 of the IPC.

2. Heard Sri. Kishore R., learned counsel appearing for the petitioner, Smt. Rashmi Patel, learned HCGP appearing for respondent No.1 and have perused the material on record.

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

The petitioner gets embroiled in a crime in Crime No.348/2016 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 to 3, 4, 7 to 10 who are available for trial and the petitioner not being available for trial, a split charge is drawn against him in C.C.No.600/2026, which is now hanging on the head of the petitioner.



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4. Learned counsel appearing before the petitioner submits that the reasons that went into acquitting accused Nos.1 to 3, 4, 7 to 10 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.

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 3, 4, 7 to 10 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 as afore-quoted. The allegation is that all the accused together did indulge in the commission of the offence. The concerned Court answering the prosecution's allegations, acquitted accused Nos. 1 to 3, 4, 7 to



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10 in S.C.No.1337/2017, who were available for trial on the following reasons:

"57. On careful consideration of the evidence of PW-1 to PW-15, it becomes clear that the prosecution has failed to secure reliable testimony from the material witnesses. The witnesses who were expected to speak about the occurrence have denied witnessing the incident and have disowned their earlier statements. Similarly, the panch witnesses have denied the seizure proceedings attributed to them. Though the evidence of a hostile witness cannot be discarded entirely, in the present case the hostile witnesses have not supported the prosecution case in any material aspect and no incriminating admissions have been elicited during cross-examination. Thus, the cumulative effect of the evidence of PW-1 to PW-15 clearly indicates that the prosecution has failed to establish the involvement of the accused persons in the alleged offence through reliable evidence.

58. When the prosecution case is examined chronologically, it becomes evident that the prosecution fails at every stage of proof. At the first stage, the prosecution has failed to establish the occurrence of the incident through reliable eyewitness testimony. The witnesses who were expected to narrate the circumstances of the alleged assault have not supported the prosecution case. At the next stage relating to investigation and recovery, the panch witnesses examined by the prosecution have denied the seizure proceedings attributed to them. Consequently, the alleged recovery of vehicles, weapons and other incriminating articles has not been proved. Finally, the prosecution has also failed to establish the identification of the accused persons as the perpetrators of the offence. The witnesses have denied the involvement of the accused persons and no reliable evidence connects them to the crime. Thus, the prosecution evidence does not form a consistent chain pointing to the guilt of the accused persons.

59. In criminal law, the burden lies upon the prosecution to prove the guilt of the accused beyond reasonable doubt. In the present case, the material



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witnesses have not supported the prosecution case. The alleged recoveries have not been proved through independent witnesses and there is no reliable evidence connecting the accused persons with the commission of the offence. Though the medical evidence indicates that the death of the deceased was homicidal, the medical evidence alone cannot establish the identity of the assailants. Thus, the prosecution has failed to establish the guilt of the accused beyond reasonable doubt.

60. In view of the foregoing discussion, this Court finds that the prosecution has failed to place before the Court reliable and convincing evidence establishing the guilt of the accused persons beyond reasonable doubt. The evidence of the material witnesses has not supported the prosecution case and the alleged recoveries have not been satisfactorily proved. In criminal jurisprudence, suspicion cannot take the place of proof. The accused are therefore entitled to the benefit of doubt.

61. In the present case, a substantial number of witnesses examined by the prosecution have been declared hostile as they did not support the prosecution case during their examination before the Court. It is well settled that the evidence of a hostile witness is not to be discarded in toto and the Court may rely upon such part of the testimony which supports the prosecution case. However, in the present case, the witnesses who were declared hostile have not supported the prosecution case in any material aspect.

62. The alleged eyewitnesses have denied witnessing the incident. The panch witnesses have denied the seizure and recovery proceedings. The witnesses who were expected to identify the accused persons have also failed to do so. Thus, the prosecution has not been able to derive any incriminating circumstance from the testimonies of these witnesses. When the material witnesses of the prosecution themselves do not support the case and there is no independent corroboration available on record, the prosecution version becomes highly doubtful. In criminal jurisprudence, conviction cannot be based on conjectures or assumptions in the absence of reliable evidence. Therefore, the large-scale hostility of prosecution witnesses has substantially



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weakened the prosecution case and has created serious doubt regarding the truthfulness of the prosecution version.

63. The prosecution case, when examined chronologically, reveals a progressive collapse at every stage of the evidence. At the first stage, the prosecution attempted to establish the occurrence of the incident and the involvement of the accused persons through alleged eyewitnesses. However, PW-1, PW-2 and PW-4, who were projected as eyewitnesses, have completely denied witnessing the incident and have not identified the accused persons before the Court. At the second stage, the prosecution attempted to prove the scene of offence and recovery of material objects through panch witnesses. However, PW-3 and other panch witnesses have denied that the mahazars and seizures were conducted in their presence. Thus, the prosecution has failed to prove the alleged recoveries.

64. At the third stage, the prosecution sought to establish the involvement of the accused persons through identification and further statements recorded during investigation. However, the witnesses concerned have denied having identified the accused persons before the police. Thus, the prosecution evidence fails at every crucial stage namely, proof of the incident through eyewitness testimony, Proof of recovery of material objects, and Identification and linkage of the accused persons with the alleged offence. Consequently, the chain of circumstances sought to be established by the prosecution remains incomplete.

65. After considering the entire oral and documentary evidence placed on record, this Court is of the considered opinion that the prosecution has failed to establish the guilt of the accused persons beyond reasonable doubt. The alleged eyewitnesses have not supported the prosecution case. The panch witnesses have denied the seizure and recovery proceedings. The prosecution has therefore failed to establish the involvement of the accused persons in the alleged incident through reliable and convincing evidence.



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66. It is a fundamental principle of criminal law that the burden of proving the guilt of the accused lies entirely on the prosecution and such burden must be discharged beyond reasonable doubt. If two views are possible on the basis of the evidence on record, the view favourable to the accused must be adopted. In the present case, the evidence placed on record is not sufficient to establish a complete and unbroken chain of circumstances pointing towards the guilt of the accused persons. On the contrary, the evidence creates serious doubt regarding the prosecution case. Therefore, the accused persons are entitled to the benefit of doubt.

67. Upon careful consideration of the entire oral and documentary evidence placed on record, this Court finds that the prosecution has failed to establish the guilt of the accused persons beyond reasonable doubt. The prosecution has mainly relied upon the testimonies of the alleged eyewitnesses and panch witnesses to prove the incident and the involvement of the accused persons. However, as already discussed in the preceding paragraphs, the material witnesses examined by the prosecution have not supported the prosecution case. The alleged eyewitnesses have denied witnessing the incident and have not identified the accused persons before the Court. Similarly, the panch witnesses have denied that any seizure or recovery proceedings were conducted in their presence.

68. The prosecution has therefore failed to establish the fundamental aspects of the case, namely the manner in which the incident occurred and the participation of the accused persons in the commission of the alleged offence. When the very foundation of the prosecution case remains unproved, the Court cannot record a finding of guilt against the accused persons. It is a settled principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof. The burden lies upon the prosecution to establish the guilt of the accused beyond reasonable doubt and such burden never shifts. In the present case, the evidence placed on record falls far short of the standard required for recording a conviction.



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69. Accordingly, this Court is satisfied that the prosecution has failed to prove the charges against the accused persons beyond reasonable doubt and that the accused persons are entitled to the benefit of doubt.

70. In view of the foregoing discussion and appreciation of evidence, this Court answers the points for determination against the prosecution and in favour of the accused. The prosecution has not been able to establish through reliable and cogent evidence that the accused persons, in furtherance of their common intention or common object, committed the murder of the deceased Avinash as alleged in the charge. The evidence on record does not inspire confidence to hold that the accused persons are responsible for the commission of the offence.

71. In the absence of trustworthy and convincing evidence linking the accused persons with the alleged crime, it would be unsafe to record a conviction. The benefit of doubt arising from the deficiencies in the prosecution evidence must necessarily enure to the accused persons.

72. Before parting with the case, it is necessary to observe that criminal trials require proof of guilt through reliable and legally admissible evidence. The Court cannot act upon suspicion or conjecture, however strong they may appear. In the present case, despite the seriousness of the allegations, the prosecution has failed to place before the Court cogent and trustworthy evidence establishing the involvement of the accused persons in the alleged crime.

73. The testimonies of the material witnesses have not supported the prosecution case and the evidence on record does not form a consistent or reliable chain pointing towards the guilt of the accused. In such circumstances, the Court is duty bound to extend the benefit of doubt to the accused persons, as the presumption of innocence remains the fundamental principle of criminal jurisprudence. This Court is therefore constrained to hold that the prosecution has not succeeded in proving the charges against the accused persons beyond reasonable doubt.



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74. According to the prosecution, on the night of 02.12.2016 the deceased Avinash was allegedly intercepted by the accused persons while he was travelling in a car and was assaulted with deadly weapons, resulting in his death. However, when the prosecution evidence is examined chronologically, the prosecution story does not find support from the evidence of the witnesses examined before this Court. Firstly, the witnesses who were cited as eyewitnesses to the incident have not supported the prosecution case and have denied witnessing the alleged assault. They have also failed to identify the accused persons before the Court. Thus, the very occurrence of the incident in the manner alleged by the prosecution remains unproved. Secondly, the panch witnesses who were examined to prove the mahazars and seizure of material objects have not supported the prosecution case. They have denied that the alleged recoveries were conducted in their presence and have disowned the contents of the mahazars, thereby rendering the recovery evidence doubtful. Thirdly, the witnesses who were expected to connect the accused persons with the alleged crime through identification or other circumstances have also not supported the prosecution case.

75. Therefore, when the prosecution story is tested against the evidence actually placed before the Court, the evidence fails to substantiate the sequence of events narrated by the prosecution. The prosecution version thus suffers from serious evidentiary gaps and fails to establish the involvement of the accused persons in the alleged offence. In view of the foregoing discussion and upon careful appreciation of the entire evidence on record, this Court holds that the prosecution has not succeeded in proving the charges levelled against the accused beyond reasonable doubt. Accordingly, the points for determination are answered in the Negative. Therefore, in exercise of the powers conferred under Section 235(1) of the Code of Criminal Procedure, the accused are hereby acquitted of the offences alleged against them. Thus, I answer Point Nos.2 to 7 are in the Negative.

76. Point No.8: In view of the above findings on point o.1 to 8 accused No.1 to 3, 4, 7 to 10 are entitled for acquittal. Hence, the following order is made;



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ORDER

Acting under Section 235(1) of the Code of Criminal Procedure, the accused No.1 to 3, 4, 7, 8, 9 and 10 persons are acquitted of the offences charged against them.

The bail bonds and surety bonds shall stand cancelled, subject to the provisions of Section 437-A of Cr.P.C.

M.O.1 to 33 are ordered to be retained in the split up case against accused No.5 and 11.

Issue intimation to jail authority to release the accused No.2 forthwith to set him at liberty in this case."

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 accused Nos.1 to 3, 4, 7 to 10 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 528 of BNSS 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



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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 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



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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."

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



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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 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



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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.

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



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*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.*
- (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.*



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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.

10. In the light of there being no evidence against accused Nos.1 to 3, 4, 7 to 10 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 accused Nos.1 to 3, 4, 7 to 10, 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.



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- ii. Proceedings in C.C.No.600/2026 pending before the
LXI Addl. City Civil and Sessions Judge, Bengaluru
stand quashed, *qua* the petitioner.

Sd/-
(M.NAGAPRASANNA)
JUDGE

MCR
List No.: 2 SI No.: 31