



CNR: KAHC010562512026

NC: 2026:KHC:45966
WP No. 25732 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 25732 OF 2026 (GM-RES)

BETWEEN:

MR. KUNHI AHAMAD
MUSTHAFA (AS PER AADHAR CARD)
MR. MUSTHAFA (AS PER ORDERSHEET)
AGED 43 YEARS,
S/O NEJAR KUNHI AHMED KOYA
R/AT 1-4, SALE MELMANE HOUSE,
ULAI BETTU POST, MANGALORE TALUK,
D.K DISTRICT - 574 154.

...PETITIONER

(BY SRI. GANAPATHI BHAT, ADVOCATE)

AND:

Digitally
signed by
PADMAVATHI
B K

Location:
High Court of
Karnataka

1. THE STATE OF KARNATAKA
BY THE PSI MANGALURU RURAL
POLICE STATION, MANGALORE
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU - 560 001.
2. THE POLICE SUB-INSPECTOR
MANGALORE RURAL POLICE STATION
KULASHEKARA KAIKAMBA, MAROLI,
MANGALURU CITY,



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DAKSHINA KANNADA DISTRICT - 575 005.

...RESPONDENTS

(BY SMT. RASHMI PATEL, HCGP FOR R1 AND R2)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA R/W SEC. 528 OF BNSS, 2023 PRAYING TO A) ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRITS/ORDERS, QUASHING THE ENTIRE CRIMINAL PROCEEDINGS IN C.C NO.3889/2018 (ARISING FROM MAIN C.C NO. 1995/2015 IN CRIME NO. 301/2012 OF MANGALURU RURAL POLICE STATION), PENDING ON THE FILE OF JMFC III COURT, MANGALORE FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 147, 341 READ WITH SECTION 149 OF IPC IN SO FAR AS PETITIONER HEREIN/ACCUSED NO.10 IS CONCERNED, THE ORDERSHEET/PROCEEDINGS OF WHICH IS PRODUCED AT ANNEXURE-E AND E1 AND ETC.,

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/accused No.10 is before this Court calling in question the continuance of proceedings in C.C.No.3889/2018 registered for the offences punishable under Sections 143, 147, 341 read with Section 149 of the Indian Penal Code, 1860 ('the IPC' for short).



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2. The petitioner get embroiled in a crime along with 32 other accused, which becomes a crime in Crime No.301/2012. The police conducted investigation and filed a charge sheet and the concerned Court registers C.C.No.1995/2015. The concerned Court tries up all the accused those are available for trial and convicts them.

3. An appeal is filed by those accused who get convicted of the offences before the Appellate Court in CrI.A.Nos.19/2020 and 20/2020. The Appellate Court in terms of its order dated 29.03.2021 on the score that the prosecution has miserably failed to prove the guilt against these petitioners beyond all reasonable doubt, has acquitted all the other accused. Who remained in the fray is only the petitioner/accused No.10. The Appellate Court on the following reasons has acquitted the accused:

"11. Points No.1 and 2: The case of the prosecution is that on 26.10.2012 based on credible information when CW1 and his staff raided the house of Accused No.1 at 5.30 p.m., they had found four cattles tied at the place with one cattle slaughtered and its skin was removed. It is further stated that CW1 secured a Tempo bearing No. KA273006 to the spot, loaded the live stock, skin of the cattle and other materials found



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at the spot to the said vehicle and they left the place. It is alleged that on their wayback, the accused persons waylaid CW1 and his staff and their vehicles at about 6.45 p.m., obstructed them from moving ahead by placing stones and the wooden reepers with nails in it on the road and demanded CW1 to release the live stocks apart from making efforts to throw stones at CW1 and his staff and thereby wrongfully obstructed CW1 and his staff from performing their duties as public servants.

12. In the impugned judgment, the trial court has held that the prosecution has proved the accusation made against the accused persons beyond all reasonable doubts and convicted and sentenced them for the offences punishable under Section 143, 147, 341, 353 read with Section 151 of IPC.

13. The accused have preferred this appeal on the ground that the impugned judgment of conviction and sentence is contrary to law, weight of evidence available on the record and it is manifestly bad. They have contended that the trial court has erred on placing reliance on evidence of PW3, PW4, PW6 and PW9 for convicting them and that the trial court has failed to properly appreciate the evidence on record, which has resulted in miscarriage of justice. They have submitted that the prosecution has failed to prove the guilt of the accused persons beyond reasonable doubt and as such they are entitled for acquittal in the case. As such it requires for this Court to reappreciate the evidence placed on record by the prosecution before the trial court in support of the charges framed against the accused persons and to find out whether the trial court is justified in its conclusion and reasonings for convicting and sentencing them in the case.

14. The prosecution has examined altogether nine witnesses in the case. Amongst them PW1 Sri Prashanth and PW2 Sri Sanjaya are said to be the panchas, who were with the raiding party at the spot. PW5 Sri Manoj is said to be the driver of the goods tempo used by PW1 for shifting the live stocks and other materials found near the house of Accused No.1.



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PW7 Sri Santhosh Kumar and PW8 Sri Balachandra are said to be the witnesses to the mahazar drawn at the spot of the crime as per Ex.P6. PW3, PW4 and PW6 are the police officials who were said to be in the team of raiding party. PW9 – Sri Raveesh S. Nayak is the Investigating Officer of the case.

15. The materials on record clearly indicate that PW1, PW3, PW5, PW7 and PW8 have not made any statement before the trial court in support of the case of the prosecution. Even the prosecution has not succeeded in eliciting any favourable answer from the mouth of these witnesses during their cross examination. Thereby it becomes clear that none of these independent witnesses has supported the case of the prosecution or corroborated the version of the police officials examined in the case.

16. It is true that the evidence of police officials can be relied on to base a conviction against the accused persons if their testimony is found to be reliable and trustworthy. As such it requires for this Court to consider the depositions of above referred police officials to find out whether their testimony is sufficient to hold that prosecution has proved the guilt of the accused persons.

17. PW6 Sri Sudhakar B.S. in his examination in chief has stated that on 26.10.2012 he was working as SubInspector of Police in Mangaluru Rural Police Station and that on that day while he was in police station he received an information that Accused No.1 is indulged in illegal cowslaughtering in Kidavu of Kantharabettu, Ulaibettu Village. He has further stated that after communicating the said information to his higher ups i.e. the Police Inspector, he had gone to the spot at 5.30 p.m. along with his staff and found four cattle at the place. He has stated that during such raid, he seized the live stock and other articles found at the spot and that Accused No.1 had escaped from the place. PW6 has further stated that thereafter he secured a goods tempo to the place, loaded the live stocks and other materials found at the place in the



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said vehicle and they were returning from the said place. He has stated that at a distance of half a furlong from the place, at about 6.45 p.m., Accused No.1 and his henchmen waylaid their vehicles, obstructed them from moving ahead by placing stones and wooden reeper with nails in it in the road and demanded them to release the live stocks immediately. He has also stated that at that time those persons had thrown stones at the police officials.

18. Whereas, PW3 Sri Narayana and PW4 Sri Vishwanath Rai, in their evidence have stated that on 26.10.2012 while they were on rounds duty along with PW6, at 5.00 p.m. when they were near Vamanjoor PW6 got information that Accused No.1 is selling meat of the cattle by indulging in illegal cowslaughtering behind his house and that based on such information they went to the spot at 5.30 p.m., they found four live stocks and other materials therein. PW3 and PW4 have stated that thereafter PW6 secured Tempo bearing No. KA273006 to the spot, got all the materials seized at the place loaded in its and they were returning from the said place. They have also stated that at 6.45 p.m. a group of 40-50 persons waylaid their vehicles, prevented them from further proceeding by placing stones and wooden reepers with nails in it on the road and attempted to unload the live stocks from the tempo. They have further stated that the offenders had even threw stones at them.

19. On going through the evidence of these witnesses one can easily make out a material contradiction in the statement of PW6 and the statements of PW3 and PW4. According to PW6 he had received the information about the alleged illegal cowslaughtering while he was in the police station, whereas PW3 and PW4 have stated that PW6 had received such an information while they were on rounds duty and when they were near Vamanjooru. It is true that this aspect has no direct bearing on the alleged incident of the case. But, it will definitely have a bearing while appreciating their statements regarding its reliability and trustworthiness.



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20. PW3, PW4 and PW6 have deposed before the trial court in unison stating that when they raided the place on 26.10.2012 at about 5.30 p.m., they had found four live stocks at the place apart from other materials which indicated that the said place was being used for illegal cowslaughtering. Even this aspect has no bearing on the case. It is because undisputedly the jurisdictional police have registered another case against Accused No.1 in this connection and Accused No.1 has faced a separate trial in that regard in C.C. No.1720/2013.

21. The material aspect for this case is that of alleged formation of unlawful assembly by the accused persons on giving date, time and place, alleged com8 of rioting, alleged obstruction caused to the police personnel and their vehicles, alleged attempt to unload the live stocks from the tempo and alleged attempt to obstruct the public servants from discharging their official duty.

22. On going through the cross-examination of PW3, PW4 and PW6 it becomes clear that the accused have not disputed their statements regarding alleged incident and its occurrence on the given date, time and place. On the other hand, the accused have merely disputed their presence at the spot and their involvement in the alleged incident. As such it requires for this Court to consider the materials placed on record before the trial court to find out whether the prosecution has adduced sufficient and clinching evidence to prove the involvement and commission of the alleged offences by the accused persons.

23. In their evidence, PW3, PW4 and PW6 have specifically stated that the alleged offences were committed by a group of people comprised of 40 to 50 persons and that Accused No.1 and his henchmen were in the said group. Even then, this Court opines that such statements of PW3, PW4 and PW6 are not sufficient to hold that the accused persons guilty of alleged offences. It is because first of all PW3, PW4 and PW6 have not specifically stated about role played or overtact committed by each of the persons in the



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group or at least few of them. Further, it is to be noted that none of these witnesses have stated anything about their acquaintance with other accused persons than Accused No.1 as on the date of alleged incident. On the other hand, during his crossexamination PW6 has categorically admitted that he does not know personally, the names and addresses of the accused persons. If we peruse the report marked at Ex.P4, it would indicate that PW6 having referred name of few more persons along with the name of Accused No.1 while lodging a complaint. Whereas, during his crossexamination PW6 has chose to claim that he does not know names and addresses of the accused persons and failed to narrate even the names mentioned in the complaint. Thereby a reasonable doubt arises as to reliability of the statements of PW3, PW4 and PW6 regarding alleged involvement of the accused persons herein in the alleged incident.

24. Further, PW3, PW4 and PW6 have claimed that Accused No.1 and his henchmen had waylaid them at 6.45 p.m. and prevented them from proceeding further with the seized properties. The First Information Report marked at Ex.P5 goes to show that this case came to be registered based on a report submitted by PW6 on 26.10.2012 at 8.30 p.m. Thereby there was hardly a gap of two hours between the time of alleged incident and the time of submitting the report regarding alleged incident. It is the definite case of the prosecution that there were 4050 persons in the group. Whereas, the raiding party consisted of five police personnel and two panchas. Even then, PW3, PW4 and PW6 had returned from the place with their vehicles and the seized properties. Added to this, though PW3, PW4 and PW6 have claimed that the persons in the group had thrown stones at them, none of them got injured or sustained damage on their vehicles. Thereby a reasonable doubt arises as to the above claim of these witnesses.

25. The impugned judgment indicates that the trial court has erred in properly appreciating the evidence on record particularly against the accused herein and arrived at a wrong conclusion. The reasonings given by



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the trial court go to show that it has proceeded to believe the evidence of PW3, PW4 and PW6 without considering its reliability and trustworthiness in the light of reasonable doubts emanating from the facts and circumstances of the case. The trial court has also drawn adverse inference against the accused persons herein on the ground that there is no material to show their false implication in the case, ignoring the burden on the prosecution to prove their case beyond reasonable doubt. The question of accused coming up with a defense or probable explanation would arise only when the prosecution discharges the burden on it. In the above circumstances, this Court holds that the accused herein have made out valid ground to interfere with the impugned judgment and to acquit them from the charges framed against them. Hence, Points No.1 and 2 are answered in the Affirmative.

26. Point No.3: In the result, this Court proceeds to pass the following:

ORDER

The criminal appeals in Criminal Appeal Nos.19/2020 and 20/2020 filed under Sections 374(3) and 382 of Code of Criminal Procedure are allowed.

The judgment of conviction and sentence dated 24.12.2019 passed in C.C. No.1995/2015 by the Court of JMFC (III Court), Mangaluru is set aside to the extent of the conviction and sentence passed therein against Accused Nos.2, 4 to 9, 11, 13 to 18, 24, 27 to 29.

Consequently, Accused Nos.2, 4 to 9, 11, 13 to 18, 24, 27 to 29 are acquitted from the charges framed against them for the offences punishable under Section 143, 147, 341, 353 read with Section 149 of



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Indian Penal Code. Accused Nos.2, 4 to 9, 11, 13 to 18, 24, 27 to 29 are directed to execute a bond for Rs.25,000/ each before this Court on or before 09.04.2021, under Section 437A of Criminal Procedure Code, undertaking to appear before higher court on receipt of the notice of the appeal or revision that may be filed against this judgment. Office is directed to send back the record to concerned court forthwith along with a copy of this judgment.

The Original copy of the judgment is kept in Criminal Appeal No.19/2020 and copy of the same is kept in Criminal Appeal No.20/2020."

In the light of all the other accused getting acquitted of the offences and the petitioner remaining on the score that he was not before the Appellate Court, would not mean that the Appellate Court should be permitted to try this petitioner and render the very same judgment that is rendered *qua* the other accused, which would be a waste of precious judicial time. In that light, petition deserves to succeed.

4. For the reasons aforementioned, the following:

ORDER

(i) The petition is ***allowed***.



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(ii) The proceedings in C.C.No.3889/2018
pending before the JMFC III Court,
Mangalore, *qua* the petitioner stands
quashed.

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

JY
List No.: 1 Sl No.: 73