



CNR: KAHC010602492026

NC: 2026:KHC:46989
CRL.P No. 13317 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.13317 OF 2026

BETWEEN:

1. KESHAVA RAO
S/O M. RAMARAO
AGED ABOUT YEARS
R/AT. NO. 127, 1ST MAIN, 6TH CROSS
BANGARAPPA NAGAR, RR NAGAR
BENGALURU - 98.

...PETITIONER

(BY SRI. AVINASH .P, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY R R NAGARA PS
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU 560001.

...RESPONDENT

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

THIS CRL.P IS FILED U/S 482 CR.PC (FILED U/S 528 BNSS) PRAYING TO SET ASIDE THE ORDER OF COGNIZANCE VIDE DATED 08.06.2026 TAKEN BY XLVI ACJM, AT BENGALURU, IN C.C.NO.33475/2026 (CR.NO.41/20145 OF RR NAGARA P.S VIDE ANNEXURE-A) FOR THE OFFENCES P/U/S 341, 323, 354, 506 R/W 34 OF IPC.

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



CNR: KAHC010602492026

NC: 2026:KHC:46989
CRL.P No. 13317 of 2026

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.33475/2026 for offences punishable under Sections 341, 323, 354, 506 read with 34 of the IPC.

2. Heard Sri.Avinash P, learned counsel appearing for the petitioners, Smt. Waheeda M.M., 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.41/2015 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 all the other accused who are available for trial and the petitioner not being available for trial, a split charge is drawn against him in C.C.No.33475/2026, which is now hanging on the head of the petitioner.



CNR: KAHC010602492026

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 wrongful restraint, voluntarily causing hurt, assault or use of criminal force against a woman with intent to outrage her modesty and criminal intimidation as obtaining under Sections 341, 323, 354, 506 read with 34 of the IPC. 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 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



CNR: KAHC010602492026

under Sections 341, 323, 354, 506 read with 34 of the IPC, which relate to wrongful restraint, voluntarily causing hurt, assault or use of criminal force against a woman. The allegation is that all the accused together did indulge in wrongful restraint and assault. The concerned Court answering the prosecution's allegations, acquitted all the other accused, who were available for trial on the following reasons:

"... Point No.1 to 5:

7. These points are inter-related; hence I have discussed them together to avoid repetition of facts and evidence. The PSI of R.R.Nagar police station filed the charge sheet against the accused persons for the offence punishable Under Section 341, 323, 354, 504, 506 R/w Section 34 of IPC.

8. In order to bring home the guilt of the accused No.1 to 3, the prosecution examined seven witnesses as Pw.1 to Pw.7. The Pw.1 is the complainant, Pw.2 and Pw.4 are eye witnesses, Pw.6 is mahazer witness, Pw.5 & 7 are the investigation officers. The Pw.1 in his evidence deposed that on 06.03.2015 at about 6.00 am when he was coming outside from his house the accused persons grabbed him and dragged him to the road and assaulted him and abused with filthy language. In respect of lodging of complaint to the police, the accused persons assaulted him. When his wife came to rescue him the accused persons pushed her on the drainage and caused injury. Then they went to the hospital and obtained treatment. Further the Pw.1 deposed that the accused persons gave life threat to them. The Pw.2 to Pw.4 who are alleged to eye witness deposed that about 3 years back at about 6.00 am, there was a quarrel between the complainant and accused persons. The accused persons assaulted Cw.1 and Cw.4 with hands and gave life threat. The Pw.6 is mahazer witness who turned hostile and did not choose



CNR: KAHC010602492026

to support the case of the prosecution. The Pw.5 and Pw.7 are the investigation officers deposed evidence regarding the investigation.

9. As against the evidence, the defense that has been taken by the accused persons is complete denial the case of the prosecution. It is specific defense of the accused persons that, the Cw.1 promise to issued Hakku Pathra to the people of said area. In this regard there was a quarrel between the accused No.1 and Cw.1. the earlier the Cw.1 filed a case against the accused No.2. regarding threat and said case ended in compromise. Now, the Cw.1 filed false case against the accused persons.

10. To substantiate said defense, the Ld. Counsel for the accused has cross-examined the prosecution witnesses. The Pw.1 has clearly admitted that, earlier he has filed a case against the accused No.2 regarding the alleged threat and said case ended in the compromise. It is the case of the prosecution that the Cw.4 is the wife of the Cw.1, the accused persons grabbed her hand and pushed her on the drainage to outraged her modesty. But in the present case the Cw.4 did not appear before the court to depose evidence. The Pw.2 though in the chief examination deposed that about three years back when he was in his house there was a quarrel between the accused persons and the Cw.1, the accused persons assaulted the Cw.1 and Cw.4 with hands. The Ld. APP treated the Pw.2 has hostile and cross examined regarding the alleged wrongful restrained and abused with filthy language. But the Pw.2 has denied the suggestion made by the Ld. APP. The Pw.2 has denied the fact that the accused persons wrongfully restrained the Cw.1 and abused him with filthy language. The Pw.3 also deposed evidence regarding the alleged assault by the accused persons. During the course of cross-examination the Pw.3 has clearly admitted that he did not gave any statement before the police and Cw.1 is his friend.

11. The Pw.4 is also turned hostile to the case of the prosecution regarding the alleged restrain and abused of Cw.1 by the accused persons. Though the Pw.2 to Pw.4 deposed evidence regarding the alleged quarrel between the cw.1 and accused persons but they have not stated the specific date of the incident. As admitted by the Pw.1



CNR: KAHC010602492026

himself earlier also there was a quarrel between the Cw.1 and accused persons, and said case ended in compromise. Therefore in absence of specific date of the alleged incident, it cannot be said that the Pw.2 to Pw.4 deposed evidence regarding the alleged quarrel which is said to have been took place on 06.03.2015. It is alleged that the Cw.1 and Cw.4 went to the hospital and took treatment. But in the present case the investigation officer did not produce any wound certificate of the Cw.4. The Pw.5 and Pw.7 were investigation officer deposed evidence regarding the investigation. The alleged mahazer witness Pw.6 turned hostile and did not choose to support the case of the prosecution.

12. In the present case as per the evidence of Pw.1 and also Ex.P.1, earlier also the Cw.1 lodged a complaint against the accused persons. In respect of said fact they picked up quarrel with him and assaulted him. But during the course of cross-examination, the Pw.1 has clearly admitted that the earlier was ended with compromise. If the earlier case ended in compromise as deposed by the Pw.1, the question of alleged quarrel by the accused persons regarding the said case after compromise does not arise. Moreover there is no any corroborative evidence to support the version deposed by the Pw.1. The Cw.4 who is the wife of the Cw.1 did not appear before the court to depose evidence. In the absence of evidence of Cw.4, the doubt has been created in the case of the prosecution regarding the alleged incident. Moreover there are so many contradiction between the evidence of prosecution witnesses. Therefore on the perusal of the evidence of prosecution witnesses and the documentary evidence, it appears that the defense has been taken by the accused persons is proper and create doubt in the case of prosecution. Therefore the benefit of doubt must go in favour of accused persons. Therefore, prosecution has failed to prove the guilty of the accused persons beyond all reasonable doubt. Accordingly, I answer point No.1 to 5 in the Negative and proceed to pass the following:

ORDER

Exercising the power under section 248



CNR: KAHC010602492026

NC: 2026:KHC:46989
CRL.P No. 13317 of 2026

(1) of Cr.P.C. the accused No. 1 & 3 are acquitted for the offences punishable Under Section 341, 323, 354, 504, 506 R/w Section 34 of IPC.

The bail bond and surety bonds continued for another three months under section 437A of Cr.P.C.

Office is directed to keep this record with split up 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 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 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



CNR: KAHC010602492026

*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."

13. Yet, in another ruling **THE STATE OF KARNATAKA vs. K.C.NARASEGOWDA** reported in



CNR: KAHC010602492026

NC: 2026:KHC:46989
CRL.P No. 13317 of 2026

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 present before Court. In fact, statements given by him as per Exs.P-2 to P-4 when confronted, he



CNR: KAHC010602492026

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 background, when prayer of petitioner sought for in the present petition is examined, it can be noticed



CNR: KAHC010602492026

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 absconder, by relying upon judgment of Coordinate Bench this Court is not inclined to accept said



CNR: KAHC010602492026

*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."



CNR: KAHC010602492026

NC: 2026:KHC:46989
CRL.P No. 13317 of 2026

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.33475/2026 pending before the XLVI Additional Chief Judicial Magistrate, Bengaluru City, stand quashed, *qua* the petitioner.
- iii. Pending applications, if any, are also disposed of.

SD/-
(M.NAGAPRASANNA)
JUDGE