IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO.5137 OF 2017

BETWEEN:

SRI. RAHAMATHULLA,
S/O S.K.MAHAMMAD,
AGED ABOUT 24 YEARS,
R/O. 2ND BLOCK,
BEHIND SAHEB COMPLEX,
KATIPALLA VILLAGE,
MANGALURU – 575 003.

... PETITIONER

(BY SMT.HALEEMA AMEEN, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
   SURATHKAL POLICE STATION,
   REPRESENTED BY
   STATE PUBLIC PROSECUTOR,
   HIGH COURT BUILDINGS,
   BANGALORE – 560 001.

2. K.RAGHAVENDRA RAO,
   AGED ABOUT 31 YEARS,
   S/O LATE RAMAKRISHNA BHAT,
   SITE NO.3142, 5TH BLOCK,
   KRISHNAPURA,
   SURATHKAL – 575 101.

... RESPONDENTS

(BY SMT.NAMITHA MAHESH B.G., HCGP FOR STATE)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C. PRAYING TO QUASH THE ENTIRE PROCEEDINGS PENDING BEFORE THE I ADDL. SENIOR CIVIL JUDGE AND C.J.M., MANGALURU IN C.C.NO.130/2006 (CR.NO.49/2005) REGISTERED FOR THE OFFENCES P/U/S 341, 323, 504, 392 OF IPC AS AGAINST THE PETITIONER IS CONCERNED.

THIS CRIMINAL PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

1. The petitioner is before this Court seeking for quashing of the proceedings before I A.C.M.M., Mangaluru in C.C.No.130/2006 arising out of Crime No.49/2005 for the alleged offences punishable under Sections 341, 323, 504 and 392 of IPC.

2. The case of the prosecution is that on 14.03.2005 at about 11.15 p.m., at the place called Katipalla village at 7th Block near Kukkady bus stand, petitioner accused No.2 along with other accused persons with an intention to commit cognizable offence, wrongly restrained the complainant assaulted him by means of hands and legs and abused in filthy language and committed robbery of

gold chain from the neck of CW.1. On the crime being registered, the police have completed investigation and laid charge sheet in C.C 127/2005, the accused having applied for bail were released.

3. During pendency of the case, accused No.1, 3 and 4 have absconded hence the case was split up against them and separate C.C.No.130/2006 and 115/2010 came to be registered. As a result of the same, accused No.2 only faced trial. After conducting the trial, the trial Court by way of its detailed judgment dated 17.07.2010 acquitted accused No.2 by holding that the prosecution has failed to prove the guilt of accused No.2. More so, when the complainant with other witnesses did not support the case of the prosecution.

4. Petitioner herein who is accused No.3 who had absconded has now surfaced before this Court seeking for extension of benefit of the said acquittal

order on the ground there is no specific allegations made against petitioner/accused No.3 which stand apart from role against accused No.2 and as such continuance of proceedings insofar as petitioner/accused No.3 would neither be in the interest of justice nor it would led to a difference. More so, when the complainant himself has not supported the case of the prosecution.

5. Having regard to the fact that accused No.2 has been acquitted categorically holding that neither event has occurred nor guilt of accused has been established, I am of the considered opinion that benefit of said acquittal order needs to be extended to petitioner/accused No.3 also. There would be no purpose served by continuance of proceedings against petitioner/accused No.3. As such, proceedings in C.C.No.130/2006 registered against the petitioner herein pending on the file of I

A.C.M.M., Mangaluru is hereby quashed. Petition is ***allowed***.

Sd/-
JUDGE

nms