IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF DECEMBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CRIMINAL PETITION NO.7471 OF 2020

BETWEEN:

S. BALAJIRAO @ TIBET
S/O LATE SRINIVAS RAO
AGED ABOUT 36 YEARS
R/O NO.1060, SAROOJINI
HOSPITAL MAIN ROAD
VIDYARANYAPURA
MYSORE-570008 ... PETITIONER

(BY SRI.K.S. VISHWANATHA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
   R.T. NAGAR POLICE STATION
   BANGALORE-560032

2. R. PRAKASH
   POLICE SUB-INSPECTOR
   CCB, OCW, NT PET
   BANGALORE-560002
   REPRESENTED BY SPP
   HIGH COURT OF KARNATAKA
   BANGALORE-560001 ... RESPONDENTS

(BY SRI. K. NAGESHWARAPPA, HCGP)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C, PRAYING TO QUASH THE FURTHER PROCEEDINGS IN S.C.NO.921/2020 ARISING OUT OF CR.NO.259/2012 OF R.T. NAGAR P.S., FOR THE OFFENCE P/U/S 120B, 399, 402 OF IPC AND SEC. 3, 25, 26, 27(2) OF ARMS ACT, WHICH IS PENDING ON THE FILE OF LXIV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BANGALORE.

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

ORDER

1. The petitioner is before this Court seeking for quashing of the proceedings in S.C.No.921/2020 arising out of Crime No.259/2012 registered by R.T.Nagar Police Station for the offences punishable under Sections 120(B), 399, 402 of IPC and Sections 3, 25, 26, 27(2) of Arms Act, pending on the file of LXIV Additional City Civil Judge and Sessions Judge, Bangalore.

2. It is alleged that on 15.06.2012 at about 7.00 p.m., when the complainant was at the CCB office, he received a credible information about 6 to 7 persons in Maruti SX4 Car has gathered with deadly weapons near Sai Baba Temple, HMT Layout, R.T.Nagar with an intention to commit certain offences. Upon information being received, the complainant along with two panchas proceeded to the above place, where

they found the aforesaid 6 to 7 persons. When they tried to apprehend them, 3 persons ran away from the spot and 5 persons were apprehended. On enquiry, they gave their names as also gave names of other 3 persons. It is in pursuance thereof, Crime No.259/2012 was registered for the aforesaid offences.

3. The petitioner was arrayed as accused No.9 therein. The petitioner was enlarged on bail. Subsequently charge sheet was laid for the aforesaid offences. Since accused No.9 was shown as absconding, the case was split up and the proceedings continued as regards accused Nos.1 and 10 in S.C.No.1411/2013. After trial the said Court vide its judgment dated 28.04.2018 acquitted accused Nos.1 and 10 by holding that the prosecution has not been able to prove the case and panch witnesses have not supported the prosecution case. Hence the

question of seizure of the arms is in doubt. As such, the accused Nos.1 and 10 were acquitted.

4. Sri.K.S.Vishwanath, learned counsel for the petitioner would submit that very splitting up of the case itself was wrong inasmuch as accused No.9 was in judicial custody at that time. He could have been produced by issuance of a body warrant and case proceeded against him. Be that as it may, he submits that since the proceedings insofar as accused Nos.1 and 10 has ended in acquittal and since there is no particular allegation which has been made against the petitioner-accused No.9, which is different from that made against accused Nos.1 and 10, benefit of the same needs to be extended to the petitioner-accused no.9 herein.

5. On enquiry, Sri.K.Nageshwarappa, learned HCGP would submit that there is no appeal filed as against the judgment in S.C.No.1411/2013.

6. A perusal of the complaint filed, charge sheet laid as also the judgment passed in S.C.No.1411/2013 would not indicate any specific allegation against accused No.9 petitioner herein which is different from that of accused Nos.1 and 10. The trial having been completed, the Court has categorically come to a conclusion that the prosecution has failed to establish the case against accused Nos.1 and 10. Such being the case subjecting the petitioner-accused No.9 to another trial would not yield a different result. As such, the benefit of acquittal of accused Nos.1 and 10 is requires to be extended to accused No.9-petitioner herein.

7. In view thereof, the petition is allowed. The proceedings in S.C.No.921/2020 arising out of Crime No.259/2012 registered by R.T.Nagar Police Station for the offences punishable under

Sections 120(B), 399, 402 of IPC and Sections 3, 25, 26, 27(2) of Arms Act, pending on the file of LXIV Additional City Civil Judge and Sessions Judge, Bangalore insofar as petitioner-accused No.9 is concerned is hereby quashed.

Sd/-
JUDGE

Prs*