NC: 2026:KHC:22958
CRL.P No. 1016 of 2026

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 1016 OF 2026

BETWEEN:

SUNIL SHETTY
S/O SUKUMARA,
AGED ABOUT 48 YEARS,
R/A SUNIL HOUSE,
BARKE GARDEN,
MANNAGUDDE,
MANGALURU,
D.K. DISTRICT - 575 003.

…PETITIONER

(BY SRI. BALAKRISHNA M.R, ADVOCATE)

Digitally signed by SANJEEVINI J KARISHETTY
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA
BY URVA PS, D.K. DISTRICT,
REPRESENTED BY
ITS STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU - 560 001.

2. BHARATHI VIJAY
W/O VIJAY KUMAR B,
AGED ABOUT 48 YEARS,
R/A NO. 3-18-6,
S.R. NIVASA,
SIMON ROAD,
MAROLI, MANGALURU,
DK DISTRICT - 575 005.

…RESPONDENTS

(BY SRI. ANOOP KUMAR, HCGP FOR R1)

THIS CRL.P IS FILED U/S 482 OF CR.PC (FILED U/S 528 BNSS) PRAYING TO QUASH THE CRIMINAL ENTIRE IN PROCEEDINGS CC.NO.31/2011 (LPC.NO.22/2015) PENDING BEFORE THE HONBLE PRINCIPAL SENIOR CIVIL JUDGE AND CJM, MANGALURU FOR THE ALLEGED OFFENCE PUNISHABLE UNDER SECTION 406, 420, 418, 465, 468, 471 OF IPC REGISTERED BY THE 1ST RESPONDENT/URVA PS.

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.2 is before the Court calling in question further continuance of proceedings in C.C.No.222/2010 for the offences punishable under Sections 465, 468, 471 and 420 of the Indian Penal Code, 1860 ('the IPC' for short).

2. Heard Sri. Balakrishna M.R., learned counsel appearing for the petitioner and Sri. Anoop Kumar, learned High Court Government Pleader appearing for respondent No.1.

3. The petitioner is accused No.2, at the relevant point in time was not available for trial. The accused No.1 initially gets acquitted, accused Nos.3 and 4 later get acquitted in C.C.No.222/2010. Now, who remains in the fray is the present petitioner/accused No.2. Therefore, a split charge is drawn against the petitioner on account of his non-availability at the relevant point in time in C.C.No.31/2011. The concerned Court in terms of its order dated 04.07.2014 acquits the accused

Nos.3 and 4, who were available for trial on the following reasons:

"REASONS

9. **Point Nos. 1 to 6**: All these points are inter-connected to each other. Hence I took these points for consideration at one stretch to avoid repetition.

10. On perusal of oral as well as documentary evidence, I am of the opinion that prosecution has failed to prove allegation against accused Nos 3 and 4. P.W.1 being complaint, who set the lat into motion, in her evidence deposed reiterating the allegation of prosecution with regard to accused No.2. P.W.1 has not at all deposed any incriminating evidence against accused Nos 3 and 4. 78 Whatever evidence of P.W.1 has given it is only against accused No.2 who is ordered to split up from this case. In her evidence, she has deposed she came to know one Sunil Shetty, Vinod, Rajesh and others have forged the documents. Admittedly, name of accused Nos 3 and 4 is Vinod and Rajesh. At the cost of repetition, I would like to say, P.W.1 has not deposed any incriminating evidence against accused Nos 3 and 4. She has not deposed any single word that accused No.3 was working as Salesman at Gurudev Enterprises and accused No.3 has handed over her photo and I.D. card to accused No.4. Further she has not deposed, in turn accused No. 4 in order got get commission illegally and unlawfully affixed her photo and I.D card and got activation of mobile sim No.9008173294. This being the evidence of P.W.1, it is fatal to the case of prosecution.

11. On perusal of evidence of P.W.2 who is Airtel Distributor in his evidence he has deposed he has not seen accused Nos 3 and 4 of the present case. Further he has deposed in the year 2009 Urva Police have visited his Gurudev Enterprises situated at Kuntikana and took one office seal and police have seized sand same under mahazar. Further he has deposed he has no idea for what purpose police have seized the same. Admittedly, P.W.1 has not deposed any Incriminating evidence against accused Nos 3 and 4.

12. On perusal of evidence of P.W.3 who is holder of mobile sim No.9845340470 in her evidence she has deposed she has purchased above said sim in the name of Vamanjoor Store. Further she has deposed at that time, she has handed over her photo and 1.D card to Airtel Distributor. Further she has deposed except the above said sim, she has not purchased any other sim from Airtel. PW.3 further deposed she came to know by using her photo and I.D card, somebody has purchased mobile sim. Further she has admitted, Ex.p5 is the original application having her photograph. P.W.3 further deposed signature available on Ex.P5 is not her signature. But, she has admitted L.D card which she has given to obtain sim connection is belonging to her. At the cost of repetition, I would like to say, P.W.3 also not deposed any incriminating evidence against accused Nos 3 and 4. Hence, evidence of P.W.3 also not helpful to the case of prosecution.

13. On perusal of evidence of P.W.1 who is Airtel Distributor in his evidence he has deposed he was running Ramanath Enterprises at Karangalpady. P.W.4 further deposed he used to sell sim card by obtaining necessary records from the customers. P.W.4 further deposed he has no idea with regard to purchase of sim by C.W.1. Further he has deposed police have seized the seal of Ramanath Enterprises which is marked as M.O.2. Even P.W.4 has not deposed any incriminating evidence against accused Nos 3 and 4.

14. On perusal of evidence of P.W.5 in his evidence he has deposed about 4 years back, one day one K.R.Prasanna requested him to accompany to Urva P.S, accordingly, he has accompanied K.R. Prasanna to Urva P.S and there Urva Police have conducted mahazar as per Ex.P4. P.W.5 further deposed he has no idea with regard to allegation of the present case. Even his evidence also not helpful to the case of prosecution to prove allegation against the accused Nos 3 and 4.

15. On perusal of evidence of P.W.6 who worked as Manager between 2006 to 2009 at Bharathi Airtel Ltd., Co., in his evidence he has deposed, about 4 to 5 years back, one day one customer has lodged complaint

before Urva P.S. and accordingly, he has visited Urva P.S. and he has given necessary information with regard to sale of sim. Even P.W.6 has not deposed any Incriminating evidence against accused Nos 3 and 4.

16. On perusal of evidence of P.W.7 and 8 who are panch witnesses with respect to panchanama which is marked at Ex.P6, they have clearly turned hostile to the prosecution case. Even in their cross examination by Learned Sr.A.P.P, P.Ws 7 and 8 not supported case of prosecution.

17. On perusal of evidence of P.Ws 9 and 10 who are the Investigating officers, their evidence also not helpful to the case of prosecution. P.W.9 in his evidence has stated on 30.9.2008 at about 5.15 p.m., when he was in S.H.O duty he has received complaint, registered case, sent F.I.R to the court. Further he has deposed, he has handed over investigation to Inspector. P.W.10 further deposed he took up investigation of this case and he has collected information with regard to incoming and outgoing calls of mobile sim No.9741159670 and 9008173294. Further he has deposed he has recorded statement of the witnesses and he has seized the various documents, seals under mahazar. This much of evidence of P.W.9 and 10 not helpful to the case of prosecution. Admittedly, P.W.9 and P.W.10 have not deposed any incriminating evidence against accused Nos 3 and 4. Whatever evidence of P.Ws 1and 10 have given it is only against accused Nos 2 who is ordered to split up from this case. In this case, in the absence of cogent material and corroborative evidence against accused Nos 3 and 4, it is not safe to come to conclusion that prosecution has successfully proved guilt against accused Nos 3 and 4.

18. Viewed from any angle, I am of the opinion that prosecution has failed to prove allegation against the accused Nos. 3 and 4 beyond all reasonable doubt. Hence, my answer to the above points are in Negative.

19. **Point No.7**: For the above said reasons and discussions, I proceed to pass the following:

ORDER

Acting U/s 248(1) Cr.P.C., accused Nos 3 and 4 namely, G. Vinod and Rajesh are hereby acquitted for the offences punishable U/s 406,420,418,465,468,471 of I.P.C.

Bail bond of accused Nos 3 and 4 and their surety bond stands cancelled."

On the evidence, the prosecution had failed miserably to prove the guilt beyond all reasonable doubt, *qua* the petitioners/accused Nos.3 and 4. It cannot be said that on the same evidence, the petitioner would get convicted. Therefore, permitting further proceedings against the petitioner in the said C.C. would only be a wastage of precious judicial time.

4. 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 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 **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 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 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 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 entile 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."

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.

5. 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 and to save precious judicial time, I deem it appropriate to obliterate the proceedings against the petitioner/accused No.2 accepting the subject petition filed under Section 482 of the Cr.P.C.

6. For the aforesaid reasons, I pass the following:

ORDER

(i) Criminal Petition is ***allowed***.

(ii) Proceedings in C.C.No.31/2011 pending before the Principal Senior Civil Judge and CJM, Mangaluru, stands quashed, *qua* the petitioner/accused No.2.

Sd/-
(M.NAGAPRASANNA)
JUDGE

JY
List No.: 2 Sl No.: 10