

Ashraf @ Chilli Ashraf vs the State of Karnataka

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Court : Karnataka

Decided On : Dec-02-2025

Judge : Mohammad Nawaz

Appeal No. : CRL.P/16026/2025

Appellant : Ashraf @ Chilli Ashraf

Respondent : The State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF DECEMBER, 2025 BEFORE THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ CRIMINAL PETITION NO. 16026 OF 2025 BETWEEN: ASHRAF @ CHILLI ASHRAF S/O ABDUALL @ MOHAMMAD CHILLI, AGED ABOUT-32 YEARS, R/AT-CHIGURU PADA HOUSE, MEEYAPADAVU, MANJESHWARA TALUK, KASARAGOD DISTRICT, KERALA STATE-671 121. PETITIONER (BY SRI. DINESHKUMAR RAO K., ADVOCATE) AND:

1. THE STATE OF KARNATAKA

Digitally BY VITTAL POLICE STATION, signed by LAKSHMI T VITLA, D.K. DISTRICT-574 243, Location: (REPRESENTED BY High Court of Karnataka STATE BY PUBLIC PROSECUTOR, HIGH COURT BUILDINGS, BENGALURU 560 001)

2. K. PRAVEEN KUMAR SHETTY

S/O CHANDRAHASA SHETTY, AGED ABOUT 55 YEARS, R/AT-SHETTY COMPOUND, NEAR SUBJAIL, KODIYALA BAILU, MANGALURU, D.K.- 575 003. RESPONDENTS (BY SRI. ANOOP KUMAR M.V., HCGP FOR R1) -2- THIS CRL.P IS FILED U/S 482 CR.P.C (U/S 528 BNSS) PRAYING TO QUASH THE ENTIRE PROCEEDINGS AGAINST THE PETITIONER IN C.C.NO.530/2018 (CHARGE SHEETED FOR OFFENCES PUNISHABLE UNDER SECTIONS 457, 380 OF IPC AND PENDING ON THE FILE OF ADDL. CIVIL JUDGE AND JMFC, BANTWAL, D.K. THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

ORAL ORDER

Learned HCGP accepts notice for the State.

2. The proceeding in CC No.530/2018 pending against the petitioner on the file of the Additional Civil Judge and JMFC, Bantwal, D.K. is sought to be quashed in this petition.

3. FIR is registered in Cr.No.16/2016 of Vitla Police Station, Dakshina Kannada, against unknown culprits for the offence punishable under Section 457 and 380 of IPC.

4. Complaint was lodged alleging that some unknown persons have committed theft of cash of Rs.23,000/- by -3- breaking open the shutter of the shop (Vicky Wines) on the night of 24.1.2016 at about 2.30 a.m.

5. Chargesheet is filed against accused Nos.1 to 3

wherein, the petitioner is arraigned as accused No.3. As per the chargesheet, out of the stolen cash, Rs.21,000/- was retained by accused No.1 and Rs.1,000/- each was shared by accused Nos.2 and 3. It is relevant to mention that no cash was recovered during investigation from any of the accused. According to prosecution, the iron rod used in the commission of the offence was seized, admittedly not from the petitioner.

6. As the petitioner failed to appear before the trial Court, case against him was split-up and the trial was

held against accused Nos.1 and 2. The learned

Magistrate, after conducting a full fledged trial in C.C.No.1260/2016, acquitted accused Nos.1 and 2 vide

Judgment dated 5.10.2021. The case against the

petitioner was split-up. Copy of the judgment is annexed to the petition. -4-

7. It is relevant to extract paras-24 to 27 of the

judgment:

24. Now this court has to see whether the prosecution has proved the guilt of the accused persons beyond all reasonable doubt. The prosecution has to prove that the accused has committed an offence of theft of cash of Rs.23,000/- in the shop of PW-1 by lurking the shop.

25. in the present case before discussion of oral

evidence it is relevant discuss about the investigation. The investigator has not seized the broken keys from the spot at the time of spot mahazar. There is no reasons assigned for not doing so. The CCTV footage of the shop is not collected as part of investigation, but the

investigator has assigned the reason for the same in his cross-examination and the same is satisfactory. Further the investigator has not seized the bike along with which the accused no.1 was taken to custody.

26. further PW-4 and 8 have deposed that the

MO-1 is seized at Gubbya. The accused no.2 has produced the same. But the version of PW-6 is entirely different. With respect to the arrest of the accused the version of PW-6 and 8 are different. Another recovery mahazar witness has turned hostile to the case of the prosecution. Therefore in view of discussions held above this court comes to the conclusion that the prosecution has failed to prove the guilt of the accused persons beyond all reasonable doubts. -5-

27. It is the duty of the prosecution to prove the

guilt of the accused beyond all reasonable doubts and if there arises any doubt, benefit of doubt should always be given to the accused. In this case, the witnesses examined and the materials on record do not establish the guilt of the accused beyond all reasonable doubts. Hence. I proceed to extend the benefit of doubt in favour of the accused and proceed to answer point No.1 and 2 in Negative.

8. The evidence and material which the

prosecution has relied against all the accused are one and the same. Admittedly, there is no recovery of cash or any incriminating material from the petitioner. The trial Court, while acquitting accused Nos.1 and 2 has observed that the guilt of the accused was not proved beyond reasonable doubt and the benefit of doubt should always go to the accused. The material which the prosecution intends to rely upon against the petitioner is not different from the one relied against accused nos.1 and 2. Since the said accused are acquitted by the trial Court, no purpose will be served in continuing the proceedings against the -6- petitioner, which would

amount to abuse of process of the Court. Accordingly, the following:

ORDER

I. Petition is allowed. II. The entire proceedings against the petitioner in CC No.530/2018 pending on the file of the Additional Civil Judge and JMFC, Bantwal, D.K., are quashed. Consequently, I.A.No.1/2025 is disposed of. Sd/- (MOHAMMAD NAWAZ) JUDGE TL List No.: 1 SI No.: 68

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