
(2013) 12 KAR CK 0491
In the Karnataka High Court
Case No : Criminal Petition No. 1458 of 2013

Mahadeva

APPELLANT

Vs

State of Karnataka and Narayana

RESPONDENT

Date of Decision : 17-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0491

Hon'ble Judges : H.N. Nagamohan Das, J

Bench : Single Bench

Advocate : M. Partha, for the Appellant; K. Nageshwarappa, G.P. for R1, for the Respondent

Final Decision : Allowed

Judgement

H.N. Nagamohan Das, J.—First respondent-police registered a case in Crime No. 135/2000 against accused No. 5 for the offences punishable u/s 465, 468, 471, 420 read with Section 120(B) of IPC. Petitioner is accused No. 2. Since accused Nos. 1, 2 and 5 were absconding, a split charge sheet was filed against accused Nos. 3 and 4 in C.C. No. 12048/2003. On contest the Trial Court passed a judgment on 24.11.2007 acquitting accused Nos. 3 and 4. Thereafter, the respondent-police filed a split charge sheet against accused No. 1, 2 and 5 in C.C. No. 5077/2008. Petitioner-accused No. 2 surrendered before the Trial Court and is enlarged on bail.

2. Learned counsel for the petitioner contends that respondent-police are relying on the same evidence against the petitioner which they had relied on against the accused Nos. 3 and 4 in C.C. No. 12048/2003. The Trial Judge by considering the evidence relied on by the respondent-police acquitted the accused Nos. 3 and 4. It is not shown to me what is the difference in the evidence relied on against accused Nos. 1, 2 and 5. In the absence of any such extra evidence, I am of the considered opinion that petitioner is entitled for the benefit of acquittal as in the case of accused Nos. 3 and 4.

3. In identical circumstances, the Supreme Court in the case of Deepak Rajak Vs. State of West Bengal, , held in para. 6 as under:

A departure may be made in cases where the accused had not surrendered after the conviction in addition to not filing an appeal against the conviction. But as in the present case, after surrender, the benefit of acquittal in the case of co-accused on similar accusations can be extended.

In view of the dictum of the Supreme Court, the petitioner is entitled for the benefit of acquittal of other accused. For the reasons stated above, the following:

ORDER

i) The petition is hereby allowed.

ii) The proceedings in CC. No. 5077/2008 against the petitioner-accused No. 2 is hereby quashed.