
(2013) 12 KAR CK 0521
In the Karnataka High Court
Case No : Criminal Petition No. 7588 of 2013

Mohammed Ali @ Delhi

APPELLANT

Vs

The State of Karnataka and Sri. Swamynathan

RESPONDENT

Date of Decision : 06-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0521

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

Bench : Single Bench

Advocate : Mahadeva R.K, for the Appellant; K. Nageshwarappa, HCGP, for the Respondent

Final Decision : Allowed

Judgement

H.N. Nagamohan Das, J.—Petitioner is accused No. 2 in crime No. 56/08 for the offences punishable u/s 143, 144, 147, 148, 307 read with Section 149 IPC. After investigation a charge sheet is filed and included the offence u/s 302 IPC in addition to the above referred offences. Since the petitioner was absconding a split charge sheet was filed in S.C. No. 182/2008 against accused Nos. 3, 5 and 6 and in S.C. No. 207/2010 against accused No. 1. On contest the sessions Judge acquitted accused Nos. 1, 3, 5 and 6. Now a split charge sheet is filed against petitioner/accused No. 2 in C.C. No. 2124/2010. This Court in Crl. P. No. 5027/2013 enlarged the petitioner on bail. Petitioner contends that the prosecution is relying on the same evidence on which they had relied on in the earlier proceedings against the other accused. It is not shown to me what is the difference in the evidence against this petitioner. When the Sessions Judge has already evaluated the evidence available on record and acquitted the other accused then the petitioner is entitled for the benefit of the same. In identical circumstances Supreme Court in the case of Deepak Rajak Vs. State of West Bengal, held 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.

2. Accordingly, the following;

ORDER

i. Petition is hereby allowed.

ii. Proceedings in C.C. No. 2124/2010 on the file of Principal Civil Judge (Junior Division) and JMFC, Mysore, insofar as the petitioner is concerned, are hereby quashed.

iii. Petitioner to be released forthwith.