

(2013) 12 KAR CK 0287
In the Karnataka High Court
Case No : Criminal P. No. 4839 of 2013

Sandeep @ C. Varghese

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 02-12-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 399, 402

Citation : (2013) 12 KAR CK 0287

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

Bench : Single Bench

Advocate : Chand Pasha, for the Appellant; K. Nageshwarappa, G.P., for the Respondent

Final Decision : Allowed

Judgement

H.N. Nagamohan Das, J.—Petitioner is accused No. 4 in Cr. No. 245//2010 for the offences punishable u/s 399 and 402 IPC. Since the petitioner was absconding a split charge sheet was filed against accused 2, 5 and 6. On contest the trial Court vide judgment dated 14.02.2012 in S.C. No. 224/2011 acquitted accused No. 2, 5 and 6. Respondent police have now traced the petitioner and filed a split charge sheet in S.C. No. 262/2012 for the same offences. Further the prosecution is relying on the same evidence which they have relied in S.C. 224/2011 against accused 2, 5 and 6. In the circumstances, the petitioner is seeking extension of benefit of acquittal to him. In identical circumstances the Supreme Court in 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.

It is brought to my notice that accused is arrested and he is in custody. Therefore the petitioner is entitled for benefit of acquittal in S.C. No. 262/2012.

Accordingly, the petition is hereby allowed. The proceedings in S.C. 262/2012 are hereby quashed. The petitioner is to be released forthwith.