

(2014) 02 KAR CK 0365
In the Karnataka High Court
Case No : Criminal Petition No. 8213 of 2013

Santhosh Kumar @ Santhosh and Sudhakara @ Abbaiah	APPELLANT
Vs	
State of Karnataka and Niranjana C.S.	RESPONDENT

Date of Decision : 05-02-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 307

Citation : (2014) 02 KAR CK 0365

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

Bench : Single Bench

Advocate : Gangadharappa A.V., Advocate for the Appellant; B.J. Eshwarappa, G.P. For R.1, Advocate for the Respondent

Final Decision : Allowed

Judgement

H.N. Nagamohan Das, J.—Petitioners are accused Nos. 8 and 9 in Crime No. 158/2007 for the offences punishable under Sections 143, 147, 148, 307 read with Section 149 of IPC. Since the petitioners were absconding, split charge sheet was filed against accused Nos. 1 to 7 in S.C. No. 172/2008 and the same ended in acquittal vide judgment dated 21st October, 2009. On tracing the present petitioners the respondent police arrested them and they are in judicial custody. Further the police have filed split charge sheet against the petitioners in C.C. No. 55/2009. At this stage, petitioners are before this Court seeking the benefit of acquittal of accused No. 1 to 7 in S.C. No. 172/2008.

2. The prosecution is relying on the same evidence against the petitioners which they have relied on against accused Nos. 1 to 7 in S.C. No. 172/2008. It is not shown to me as to what is the additional evidence that the prosecution is relying on against these petitioners. In identical circumstances the 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.

For the reasons state above, the following:

ORDER

i) Petition is hereby allowed;

ii) Proceedings in C.C. No. 55/2009 on the file of the Civil Judge (Sr. Dn.) & Addl. C.J.M., Arsikere in so far as the petitioners-accused No. 8 and 9 is concerned, are hereby quashed.

iii) Petitioners are to be released forthwith.