

(2014) 01 KAR CK 0032
In the Karnataka High Court
Case No : Criminal Petition No. 7587 of 2013

T. Muttu Kumar

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 06-01-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 120(B) 177 182 302 34

Citation : (2014) 01 KAR CK 0032

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

Bench : Single Bench

Advocate : G. Suresh, for the Appellant; B.J. Eshwarappa, HCGP, for the Respondent

Judgement

H.N. Nagamohan Das, J.—The petitioner is the accused No. 1 in Crime No. 120/2009 for the offences punishable under Sections 302, 394 r/w 34 of IPC. The investigation is completed and charge sheet was filed for the offences punishable under Sections 302, 120(B), 177, 182 r/w 34 of IPC. Since the petitioner was absconding the Sessions Judge proceeded against accused No. 2 to 4 in S.C. No. 130/2010 and the same ended in acquittal vide Judgment dated 27th August 2012. Now, the prosecution has filed a split charge sheet against accused No. 1/petitioner in C.C. No. 24564/2009 and re-numbered as 24222/2010. Aggrieved by the initiation of charge sheet against the petitioner, the petitioner is before this Court u/s 482 of Cr.P.C. seeking quashing of the proceedings on the ground that he is entitled for the benefit of judgment of acquittal of accused Nos. 2 to 4. During the pendency of this proceedings, the petitioner surrendered before the jurisdictional Magistrate and he is now in Judicial Custody.

2. The prosecution relied on some evidence before the Sessions Judge in S.C. No. 130/2010 and the same was assessed, appreciated and evaluated by the Sessions Judge resulting in acquittal of accused Nos. 2 to 4. Now, the

prosecution is relying on the very same set of evidence against the petitioner/accused No. 1.

3. Perusal of the charge sheet specifies that the main allegations are against accused Nos. 2 to 4. What is alleged against the petitioner is conspiracy in committing the offence. In an identical circumstances, the Supreme Court in the case of Deepak Rajak Vs. State of West Bengal, has stated that:

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.

4. In view of the law declared by the Apex Court, the petitioner is entitled for benefit of acquittal passed against accused Nos. 2 to 4. Accordingly, the proceedings against the petitioner in C.C. No. 24564/2009 on the file of the XI Addl. C.M.M., Bangalore City are hereby quashed. Immediately the petitioner shall be released.