

(2014) 02 KAR CK 0052
In the Karnataka High Court
Case No : Criminal Petition No. 722/2014

Umakanth

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 04-02-2014

Acts Referred:

Citation : (2014) 02 KAR CK 0052

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

Bench : Single Bench

Advocate : Younous Ali Khan, Advocate for the Appellant; B.J. Eswarappa, GP, Advocate for the Respondent

Final Decision : Allowed

Judgement

H.N. Nagamohan Das, J.—The petitioner is accused No. 1 in Cr. No. 0968/2010. After investigation, a charge sheet came to be filed against accused No. 3 and the matter was committed to the Sessions Judge in S.C. No. 1012/2011. As the petitioner and accused No. 2 absconded, the Sessions Judge proceeded against accused No. 3 and vide judgment dated 03.12.2012, acquitted him. On tracing the petitioner, the respondent-police have now filed a split charge sheet in S.C. No. 1433/2014. Aggrieved by this, the petitioner is before this Court.

2. Learned counsel for the petitioner submits that the petitioner has surrendered before the trial Court and he is in judicial custody. He further submits that the prosecution is relying on the same set of evidence against the petitioner which they have relied on against accused No. 3. When the Sessions Court evaluated the evidence produced by the prosecution and acquitted accused No. 3, then the same benefit is to be extended to the petitioner. It is not shown to me as to what is the difference in the evidence against the petitioner.

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.

4. In view of the dictum of the Supreme Court, the petitioner is entitled for the benefit of acquittal of other accused. Accordingly, the following:

ORDER

- i) The petition is hereby allowed.
- ii) The proceedings in S.C. No. 1433/2013 pending on the file of the Sessions Judge, Fast Track-IX, Bangalore are hereby quashed.
- iii) The petitioner is to be released forthwith.