

KABC030277972009



**IN THE COURT OF THE II ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, BENGALURU CITY**

Dated this 29th day of April 2026

PRESENT : SRI.SAHEEL AHMED S. KUNNIBHAVI, B.Com., LL.B.
(Spl.)

II Additional Chief Judicial Magistrate, Bengaluru City

JUDGMENT UNDER SECTION 355 OF Cr.P.C.

1.	Sl. No. of the case	C.C.No.26883/2009
2.	Date of commission of the offence (As per F.I.R.)	01.02.2006 to 14.09.2006
3.	Name of the complainant	Jayanagar Police Station, Bengaluru City
4.	Name of the accused	1. K.S.Manjunatha, S/o Sathyanarayana, Aged about 46 years, R/at No.51, 1 st B Cross, Banagirinagar, Banashankari 3 rd Stage, Bengaluru-89. 2. Girish J. (Accused acquitted in Main C.C.No.2987/2008) 3. R.Babu. (Accused acquitted in

		Main C.C.No.2987/2008) 4. R.Ravikumar. (Accused acquitted in Main C.C.No.2987/2008)
5.	The offences complained of	Sections 120(B) and 420 of the Indian Penal Code
6.	Plea of the accused	Pleaded not guilty
7.	Final order	Accused No.1 is acquitted
8.	Date of order	29.04.2026

The Sub-Inspector of Police of Jayanagar Police Station, Bengaluru has filed Police Report against the above named accused No.1 to 4 for the offences punishable under Sections 120(B) and 420 of the Indian Penal Code. The accused No.2 to 4 are already acquitted in main C.C.No.2987/2008 dated 11.12.2020. This is a split up case against accused No.1.

2. It is the case of the Prosecution that the informant being the Manager of South Indian Bank had been to the Police Station and lodged the information that during the course of Audit and Inspection they have found that jewelries/gold ornaments pledged by accused No.1 to 3 are gold plated and

they are not original gold. At the time of loan, the gold jewelries pledged by the accused were certified by accused No.4 as gold and based on his opinion Rs.34.15 lakhs was sanctioned in favour of these accused. They were called to the Bank and enquired. But, their reply was evasive. On these allegations, the information was lodged.

3. Based on the First Information of CW1, the crime was registered. Accused No.2 to 4 are already acquitted in C.C.No.2987/2008 as per Judgment dated 11.12.2020. This is a Split-Up case against accused No.1. Accused No.1 was absconding and NBW and Proclamation and Attachment Warrant was issued against him. He was not secured and not released on bail.

4. To prove the charges framed against accused No.1, it is on record that accused No.2 to 4 are acquitted of the same crime and accordingly as the Hon'ble Supreme Court of India and Hon'ble High Court of Karnataka reported in many judgments that when the trial was held against one of the accused in respect of the same offence and in the second

round of the trial against the remaining accused, the evidence cannot be different from the one that was produced by the Prosecution in the earlier case. The examination of the accused under Section 313 of Cr.P.C. was dispensed with. Accordingly the matter was heard and posted for judgment.

5. Perused the materials available on record.

6. The points for determination are:-

1. Whether prosecution has proved the offence charged against accused No.1 for the offences punishable under Sections 120(B) and 420 of the Indian Penal Code beyond reasonable doubt?

2. What order or sentence?

7. My answers to the above points are as follows:

Point No.1 : In the Negative,

Point No.2 : As per final order for the following:-

REASONS

8. **POINT No.1** :- It is the case of the Prosecution that these

accused No.2 to 4 in original C.C.No.2987/2008 along with this split up accused No.1 had obtained the land from the informant Bank i.e., South Indian Bank on pledging duplicate gold. During the course of investigation these accused were secured and the Investigation Officer has recorded the voluntary statement of the accused. After due investigation the Final Report was submitted.

9. Accused No.1 was reported absconded and NBW and proclamation was issued against him.

10. The Hon'ble Supreme Court has ruled in many reports including reported in 2023 SCC OnLine SC 1155 in Javed Shaukat Ali Qureshi v. State Of Gujarat and was decided on September 13, 2023 that when the trial was held against one of the accused in respect of the same offence and in the second round of the trial against the remaining accused, the evidence cannot be different from the one that was produced by the Prosecution in the earlier case. This Split up accused No.1 is also entitled for the said benefit of doubt as it was extended to his co-accused. Accused No.1 can be acquitted

on benefit of doubt. In this case, in respect of the same crime accused No.2 to 4 were acquitted by my Predecessor in original C.C.No.2987/2008 dated 11.12.2020 on trial. In the said original C.C.No.2987/2008 my Predecessor has held that the Prosecution failed to prove that MO1 to MO25 are fake gold ornaments and the signatures found in Ex.P8 to Ex.P42 are belongs to accused No.1 to 4. The Court has also observed that there was completely failure on the part of the Investigation Officer in conducting the investigation in a proper manner. The guilt of the accused persons has not been proved beyond all reasonable doubts. In this case also this Court finds that when the Prosecution fails to prove that these accused obtained the loan by pledging the fake gold in original C.C.No.2987/2008, the Prosecution unable to prove the guilt of the accused beyond all reasonable doubts. The learned Senior APP further has argued that in the absence of the accused the judgment cannot be pronounced. The accused is not secured. The matter is pending since 2007. Further, it is the settled principle of law that when the Court comes to the conclusion that when there is no merits on the

case, the presence of the accused is not necessary to pronounce the judgment. Section 353(6) of the Cr.P.C. mandates that if an accused is not in custody, they must attend Court to hear the judgment, unless personal attendance was dispensed with and the sentence is only a fine or acquittal. If one of multiple accused is absent, the Court can proceed with pronouncing the judgment to avoid delay. That if the Court concludes there is no merit in the case and intends to acquit the accused, or if the sentence is only a fine, the presence of the accused is not necessary for the pronouncement of the judgment. Accordingly, the argument of the learned Senior APP holds no grounds. As per the Reports of the Hon'ble Supreme Court of India this Court finds that when the trial was held against one of the accused in respect of the same offence and in the second round of the trial against the remaining accused, the evidence cannot be different from the one that was produced by the Prosecution in the earlier case. This Split up accused No.1 is also entitled for the said benefit of doubt. Accordingly, I answer **Point No.1 in the Negative.**

11. **POINT No.2** :- For the reasons stated in Point No.1, the prosecution has not proved the guilt of accused No.1 for the offences charged against them beyond all reasonable doubts. Therefore, accused No.1 is not found guilty for the offences punishable under Sections 120(B) and 420 of the Indian Penal Code. In the result, I proceed to pass the following:-

ORDERS

Under Section 248(1) of Cr.P.C, accused No.1 is hereby acquitted for the offences punishable under Sections 120(B) and 420 of the Indian Penal Code.

Office is hereby directed to keep the entire file along with Split up Criminal Case of accused No.2 to 4 in main C.C.No.2987/2008.

(Typed by the Stenographer in the Court Computer on my direct dictation, printout taken, corrected and then pronounced by me in the Open Court on 29th day of April 2026.)

(SAHEEL AHMED.S.KUNNIBHAVI)
II ACJM, Bengaluru City.

ANNEXURE**Witnesses Examined on behalf of Prosecution :-**

NIL

Documents marked on behalf of Prosecution :-

NIL

Material objects marked on behalf of Prosecution :-

NIL

Witnesses Examined on behalf of the accused :-

NIL

Documents marked on behalf of the accused :-

NIL

II ACJM, Bengaluru City.