

KABC030306752022



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

Dated this 21st day of May 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.11748/2022
2.	Date of commission of the offence (As per F.I.R.)	02.09.2016
3.	Name of the complainant	J.P.Nagar Police Station, Bengaluru City
4.	Name of the accused	1. Vinay K.J. (Accused acquitted in Main C.C.No.11029/2018) 2. Hema R.V. (Accused acquitted in Main C.C.No.11029/2018) 3. Mohan Krishna @ Mohana, S/o Sundara, Aged about 42 years, R/at No.6/3, Shika Nilaya, 3 rd Cross, Tank Bund Road, Marenahalli,

		J.P.Nagar 2 nd Phase, Bengaluru.
5.	The offences complained of	Sections 109, 323, 324, 354, 427, 448, 504 and 506 R/w Section 34 of the Indian Penal Code
6.	Plea of the accused	Pleaded not guilty
7.	Final order	Accused No.3 is acquitted
8.	Date of order	21.05.2026

The Sub-Inspector of Police of J.P.Nagar Police Station, Bengaluru has filed Police Report against the above named accused No.1 to 3 for the offences punishable under Sections 109, 323, 324, 354, 427, 448, 504 and 506 R/w Section 34 of the Indian Penal Code. The accused No.1 and 2 are already acquitted in main C.C.No.11029/2018 dated 02.11.2022. This is a split up case against accused No.3.

2. It is the case of the Prosecution that one Smt.Divya, W/o Mohan had been to the Police Station and lodged the information that on 01.10.2016 at about 12.30 p.m. these accused came to the house of the informant and started abusing in a filthy language. These accused in furtherance of

their act even have assaulted with a club on the head of the informant by causing grievous injuries. They put the informant on dire consequences. Soon after the incident, the informant had been to the Police Station and lodged the information.

3. Based on the First Information of CW1, the crime was registered. Accused No.1 and 2 are already acquitted in main C.C.No.11029/2018 dated 02.11.2022. This is a split up case against accused No.3. Accused No.3 was absconding and NBW and Proclamation and Attachment Warrant was issued against him.

4. To prove the charges framed against accused No.3, it is on record that accused No.1 and 2 are acquitted of the same crime in C.C.No.11029/2018 dated 02.11.2022 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 and 2 for the offences punishable under Sections 109, 323, 324, 354, 427, 448, 504 and 506 R/w Section 34 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 these

accused No.1 and 2 along with this split up accused No.3 assaulted the informant with a club and caused grievous injuries. Accused No.1 and 2 were acquitted in original C.C.No.11029/2018. This is a split up case against accused No.3. Accused No.3 was reported absconded and NBW and Proclamation and Attachment Warrant was issued against him.

9. 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.3 is also entitled for the said benefit of doubt as it was extended to his co-accused. Accused No.3 can be acquitted on benefit of doubt. In this case, in respect of the same crime accused No.1 and 2 were acquitted by my Predecessor in

original C.C.No.11029/2018 dated 02.11.2022 on trial. In the said original C.C.No.11029/2018 my Predecessor has held that in spite of passing of ten years, the Prosecution were unable to secure CW1 and 2 who were victims and lodged the information against these accused. In the absence of the evidence of CW1 and 2, my Predecessor has acquitted accused No.1 and 2. This CW1 was even not secured through proclamation. Further, without any evidence my Predecessor has acquitted the accused No.1 and 2. In this case also this Court finds that when the informant and rest of the witnesses have not been examined, there are no chance to get them for the trial in this case also. The matter is pending since ten years. 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.3 is also entitled for the said benefit of doubt. Accordingly, I answer **Point No.1 in the Negative.**

10. **POINT No.2** :- For the reasons stated in Point No.1, the prosecution has not proved the guilt of accused No.3 for the offences charged against him beyond all reasonable doubts. Therefore, accused No.3 is not found guilty for the offence punishable under Sections 109, 323, 324, 354, 427, 448, 504

and 506 R/w Section 34 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.3 is hereby acquitted for the offences punishable under Sections 109, 323, 324, 354, 427, 448, 504 and 506 R/w Section 34 of the Indian Penal Code.

Office is hereby directed to keep the entire file along with Split up Criminal Case of accused No.1 and 2 in main C.C.No.11029/2018.

(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 21st day of May 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.