

KABC030570752022



**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.22526/2022
2.	Date of commission of the offence (As per F.I.R.)	17.08.2016 and 18.08.2016
3.	Name of the complainant	J.P.Nagar Police Station, Bengaluru City
4.	Name of the accused	1. Karthik. (Accused acquitted in Main C.C.No.5334/2020) 2. Sridhar @ S.T.D., S/o Narayanappa, Aged about 25 years, R/at No.247, Sarakki Main, Gandhi Circle, Near Masjid, J.P.Nagar 1 st Stage, Bengaluru. 3. Punith @ Punga, S/o Ramachandra,

		Aged about 20 years, R/at No.31, Kuvempu Road, Jaraganahalli, J.P.Nagar 6th Phase, Bengaluru. 4. Muthu Raj. (Accused acquitted in Main C.C.No.30241/2018) 5. Karthik. (Accused acquitted in Main C.C.No.30241/2018)
5.	The offences complained of	Sections 143, 144, 147, 148, 365, 342, 323 and 324 R/w Section 149 of the Indian Penal Code
6.	Plea of the accused	Pleaded not guilty
7.	Final order	Accused No.2 and 3 are 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 5 for the offences punishable under Sections 143, 144, 147, 148, 365, 342, 323 and 324 R/w Section 149 of the Indian Penal Code. Accused No.1 is already acquitted in main C.C.No.5334/2020 dated 11.01.2023. Accused No.4 and 5 are acquitted in main C.C.No.30241/2018 dated

07.01.2021. This is a split up case against accused No.2. and 3.

2. It is the case of the Prosecution that one Mr.Puttappa, S/o M.S.Bhupaiah had been to the Police Station and lodged the information that on 17.08.2016 at about 9.00 a.m. these accused No.1, 4 and 5 along with the split up accused No.2 and 3 came in their Access Bike and kidnapped the son of the informant by name Nikhil. These accused in furtherance of their act assaulted the son of the informant with an iron rod and caused grievous injuries. On the very next day these accused has released the said Nikhil and sent him in an Auto Rickshaw on dire consequences. Soon after the incident, CW1 Puttappa 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 is already acquitted in main C.C.No.5334/2020 dated 11.01.2023. Accused No.4 and 5 are acquitted in main C.C.No.30241/2018 dated 07.01.2021. This is a split up case against accused No.2 and 3. They were

absconding and NBW and Proclamation and Attachment Warrant was issued against them.

4. To prove the charges framed against accused No.2 and 3, it is on record that accused No.1, accused No.4 and 5 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 persons under Section 313 of Cr.P.C. was dispensed with. Accordingly the matter was 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.2 and 3 for the offences punishable

under Sections 143, 144, 147, 148, 365, 342, 323 and 324 R/w Section 149 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 on 17.08.2016 at about 9.00 a.m. these accused No.1, 4 and 5 along with the split up accused No.2 and 3 came in their Access Bike and kidnapped the son of the informant by name Nikhil. These accused have assaulted this Nikhil with an iron rod and caused grievous injuries. Accused No.1 is already acquitted in main C.C.No.5334/2020 dated 11.01.2023. Accused No.4 and 5 are acquitted in another C.C.No.30241/2018 dated 07.01.2021. This is a split up case against accused No.2 and 3. Accused No.2 and 3 were

reported absconded and NBW and Proclamation and Attachment Warrant was issued against them.

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.2 and 3 are also entitled for the said benefit of doubt as it was extended to his co-accused. Accused No.2 and 3 can be acquitted on benefit of doubt. In this case, in respect of the same crime accused No.1 was acquitted by my Predecessor in original C.C.No.5334/2020 dated 11.01.2023 and accused No.4 and 5 were acquitted in main C.C.No.30241/2018 dated 07.01.2021. In the said original main case judgments, my Predecessor has held that CW1 has not supported the case of the Prosecution and even has denied that he has lodged any

information against these accused. The matter is pending since 2016 for the offences punishable under Sections 143, 144, 147, 148, 365, 342, 323 and 324 R/w Section 149 of the Indian Penal Code. In this case also this Court finds that when the informant and rest of the witnesses have not supported the case of the Prosecution, the examination of CW1 futile in the present case also. 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.2 and 3 are 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.2 and 3 for the offences charged against them beyond all reasonable doubts. Therefore, accused No.2 and 3 are not found guilty for the offences punishable under Sections 143, 144, 147, 148, 365, 342, 323 and 324 R/w Section 149 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.2 and 3 are hereby acquitted for the offences punishable under Sections 143, 144, 147, 148, 365, 342,

323 and 324 R/w Section 149 of the Indian Penal Code.

Office is hereby directed to keep the entire file along with Split up Criminal Case of accused No.1 in main C.C.No.5334/2020 and Split up Criminal Case of accused No.4 and 5 in main C.C.No.30241/2018.

(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.