

KABR010039522024



**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, BENGALURU RURAL DISTRICT,
BENGALURU**

Present:

Smt. B.S. Rekha, B.A.(Law), LL.M.
Prl. District & Sessions Judge,
Bengaluru Rural District, Bengaluru.

Dated this the 27th day of April, 2026.

Sessions Case No.244/2024

Complainant:- State by Byadarahalli Police,
Bengaluru Rural District.

(By learned Public Prosecutor)

-VERSUS-

Accused:- A.3 Manjunatha K.,
S/o Late Narasimhaiah,
Aged about 25 years,
R/at: No.108, 7th Main,
Vijayananda Nagara,
Nandini Layout,
Bengaluru-96.

(By Sri. S.S.G- Advocate)

1.	Date of commission of offence	17.03.2020
2.	Date of report of occurrence	17.03.2020
3.	Whether accused are in	Accused No.3 is on bail

	custody or on bail.	
4.	If in custody from which date	-
5.	Date of commencement of Evidence	18.03.2025
6.	Date of closing of evidence	21.01.2026
8.	Name of the Complainant	Sri Siddappa, ASI of Byadarahalli Police Station.
9.	Offence complained of	U/Ss.143, 144, 399 & 402 R/W S.149 of Indian Penal Code
10.	Opinion of the Judge	Accused No.3 found not guilty of offences punishable U/Ss.399 & 402 of IPC.
11.	Order/Result	As per final order

J U D G M E N T

The Police Sub-Inspector, Byadarahalli Police Station, Bengaluru Rural District has filed charge-sheet against accused persons alleging the offences punishable U/Ss.143, 144, 399 & 402 R/W S.149 of Indian Penal Code.

2. The case of prosecution in nutshell is that on 17.03.2020 at about 9.30 p.m. within the jurisdiction of Byadarahalli Police Station Near Rock pitch of Mahadeshwara Nagara, accused No.3 along with other accused No.2 & 4 and absconded accused No.1 & 5 became members of unlawful assembly by holding deadly weapons in their hands by making all preparations to commit dacoity and being members of the gang, they intended to commit dacoity of passersby and on credible information of this fact, C.W.1 called panchas- C.W.2 & C.W.3 and along with them, with his staff C.W.3 to C.W.7; C.W.1 had been to said spot and confirmed himself about the preparations of accused persons and then conducted raid with C.W.4 to C.W.7 in presence of C.W.2 & C.W.3 and at that time accused No.5 escaped and they could not be able to caught hold accused Nos.1 to 4 and seized deadly weapons from them.

3. After receipt of the charge-sheet, learned CJM has complied with S.209 Cr.P.C., and committed the charge-sheet and other materials in C.C.No.299/2024 to this Court vide order dated 07.08.2024 against accused No.3. After committing the case to this court, this case is registered. Accused No.1 & 5 are split-up before Committal Court in C.C. No.7825/2024. Further, it is pertinent to note here that, case against accused No.2 & 4 was registered in S.C. No.68/2024 before this court.

4. The accused No.3 is on bail.

5. After hearing arguments of both sides, as there were materials to frame charge, my learned predecessor has framed charge against accused No.3 alleging the offences punishable U/Ss.399 & 402 of Indian Penal Code. After understanding the contents of charge, read-over and explained to accused No.3 in the language known to him, he pleaded not guilty and claimed trial.

6. In order to prove its case, prosecution has examined 4 witnesses as P.W.1 to P.W.4, got marked Ex.P.1 to 4 and M.O.1 to 4 and closed its side.

7. Statement of accused No.3 U/S.313 Cr.P.C., is recorded after completion of the evidence of prosecution by putting incriminatory evidence against him, which were found in the evidence of prosecution witnesses and accused No.3 has denied the prosecution case in toto in the said statement.

8. On perusal of the evidence of prosecution, examination of the accused No.3 U/S.313 Cr.P.C., and hearing arguments of both sides, this court holds that this is not the fit case to acquit accused No.3 U/S.232 Cr.P.C., for the offences U/Ss.399 & 402 of Indian Penal Code. Hence, the case is posted for defence evidence. However, accused No.3 and his learned

counsels submitted that there is no defence evidence on their behalf.

9. Accused No.3 has complied with S.437-A of Cr.P.C. and furnished surety for his due presence even after disposal of this case for a period of six months or if any appeal is preferred before Higher Courts, till disposal of the appeal.

10. Heard arguments of both sides.

11. From the above facts, the points that arise for consideration are:

1. *Whether the prosecution proves beyond reasonable doubt that on 17.03.2020 at about 9.30 p.m, near Rock pitch of Mahadeshwara Nagara within the jurisdiction of Byadarahalli police station, accused No.3 along with other accused No.2 & 4 and absconded accused No.1 & 5 became members of unlawful assembly by holding deadly weapons like iron-rods and chilly-powder packets and were making preparations to commit dacoity of passerby*

and thereby, committed the offence punishable U/S.399 IPC.?

2. *Whether the prosecution further proves beyond reasonable doubt that, on the same date, time and place, accused No.3 along with other accused No.2 & 4 and absconded accused No.1 & 5 have assembled as members of the gang for the purpose of committing dacoity by holding deadly weapons like iron-rods and chilly-powder packets and thereby committed the offence punishable U/S.402 IPC?*

3. *What order?*

12. Finding of this Court on the above points are as under:-

Point No.1 & 2: In the **Negative;**

Point No.3: As per final order for the following:-

REASONS

13. **Point No.1 & 2:-** These points are considered together, as they require common discussion for the sake of convenience and clarity.

14. The case of prosecution is narrated in detail herein above.

15. C.W.8 examined as P.W.1-Ajith Kumar Koluru who has deposed that on 17.03.2020 at 11.00 p.m., P.W.3 has produced his report cum complaint as per Ex.P.2 along with panchanama as per Ex.P.1; two iron rods, two chilly powder packets as per M.O.1 to 4, accused persons before him and then he received them, registered the said complaint in Crime No.95/2020, prepared FIR as per Ex.P.3 and mentioned the seized articles under P.F.No.41/2020 and submitted to the Court. On the same day, he arrested four accused persons at 11.30 p.m. as per procedure. He recorded the statements of C.W.2 to 7. On 18.03.2020, he recorded the voluntary statements of accused No.1, 2, 4 and accused No..3 and produced them with remand application through his staff before

court. He has deputed his staff to trace absconded accused No.5, but could not trace him. On 28.04.2020, he filed charge-sheet against all 5 accused persons. He identified accused No.3 before Court and M.O.1 to 4 produced in S.C.No.68/2024.

16. C.W.2 examined as P.W.2-Hanumantha, who has deposed that he put signature to Ex.P.1-panchanama in the year 2020, during evening. At that time, police and his neighbours were there and nothing was seized in his presence. He deposed that accused No.3 present before the Court was not there. He does not know the contents of Ex.P.1 and that he has not given any statement before police pertaining to this case. At this stage, he was treated as hostile to the case of prosecution.

17.1. C.W.1 examined as P.W.3-L.T. Siddappa, the then ASI of Byadarahalli police station reveals that on

17.03.2020, Police Inspector of Byadarahalli police station directed him and C.W.4 to C.W.7 to do patrolling duty from 8.00-11.00 p.m. Accordingly, when they were doing patrolling duty at 8.30 p.m., at Mahadeshwara Nagara, he received credible information that near rock pitch of Maruthi Nagara, some 5-6 persons are talking to commit dacoity of passersby, by holding deadly weapons in their hands. Accordingly, he called C.W.2 & C.W.3 as panchas to Mahadeshwara Nagara and C.W.4 to C.W.7 were already with him and all of them had been near rock pitch of Maruthi Nagara at about 9.00 p.m.

17.2. P.W.3 has further deposed that he sent C.W.4 to the spot to confirm about the credible information he had gathered and then C.W.4 came back and confirmed that the information gathered is correct and then P.W.3 along with C.W.4 to C.W.7

surrounded them and caught hold four persons and one of them escaped from the spot and then he enquired the name and addresses of those 4 persons and they told their names as Thohif Pasha, Madan, Manjunatha(accused No.3) & Narasimhamurthy and told the name of escaped accused as Prasanna @ Kariya. Accused No.3 and accused No.1, 2 & 4 were holding two iron rods and two chilly powder packets; he seized those articles under panchanama as per Ex.P.1 from 9.30-10.30 p.m., and he identified those articles as M.O.1 to 4 before court. He brought seized articles, accused No.3, other accused No.1, 2 & 4 to Byadarahalli police station at about 10.50 p.m. and produced before Station House Officer with his report cum complaint as per Ex.P.2.

18. C.W.4 examined as P.W.4-Gurudeva H.K and he deposed that he was working as HC at Bydararahalli

police station from January 2020 to July 2024. On 17.03.2020, the Police Inspector of their station directed him and C.W.5 to 7 to do patrolling duty from 8.00-11.00 p.m., and accordingly when they were on patrolling duty, on the information collected by P.W.3, himself, panchas C.W.2 & 3 and C.W.5 to 7 had been to the spot and caught hold accused No.1 to 4 who were holding iron rods and chilli powder packers and accused No.5 escaped from the spot. This witness as deposed in tune with the evidence of P.W.3.

19. On perusal of the oral evidence of P.W.3, he arrested accused No.3, and other accused No.1, 2 & 4 in presence of panchas-C.W.2 & 3. C.W.2 is examined before the court as P.W.2; but he has not supported the case of prosecution and according to P.W.2, he has put his signatures to panchanama in the police station and not at the spot as alleged in the case of

prosecution. He has further deposed that nothing was seized in his presence and he does not know the contents of Ex.P.1. Even after due execution of proclamation to C.W.3, he is absent and hence, prayer of learned Public Prosecutor is rejected and C.W.3 is dropped.

20. Thus, there are no independent witnesses to support the case of prosecution. Even though there is no rule that evidence of Investigating Officer cannot be disbelieved, without corroboration from independent witnesses, there are certain lapses in the investigation and evidence of P.W.1 & 3.

21. In the panchanama, the Investigating Officer has narrated the details of whom he caught hold and whom the other staff caught hold. But, his evidence is not supported by any independent witnesses, even

though, it is stated in the panchanama that independent witnesses were present at that time.

22. There is no clinching evidence to show that accused No.3 was a member of unlawful assembly to commit any other offence or have committed rioting. Hence, prosecution utterly failed to prove the involvement of accused No.3 in this case.

23. P.W.3 has not secured any information about the circumstances under which the informant secured the information. Thus, it appears that P.W.3 has overwhelmed by some information given by the alleged informant about the preparation for committing dacoity or robbery by holding any weapons, without holding any enquiry or efforts to confirm the same. Mere holding of weapons may not amount to commission of offences punishable under Ss.399 & 402 of IPC. What is important is intention to commit

dacoity or robbery and assembled at the spot for commission of dacoity.

24. Under these circumstances, without corroboration from the independent witnesses, this Court holds that prosecution failed to prove the offences levelled against the accused beyond reasonable doubt. Always benefit of doubt shall be in favour of the accused persons. Hence, this Court holds that prosecution fails to prove point Nos.1 & 2 beyond reasonable doubt. Accordingly, point No.1 & 2 are answered in ***Negative***.

25. **Point No.3:-** In view of findings on point No.1 and 2, this Court proceeds to pass the following:-

O R D E R

Accused No.3 is acquitted U/S.235(1) of Cr.P.C. for the offences punishable U/Ss.399 & 402 of Indian Penal Code.

Bail bond and suretyship of accused No.3 will be continued for a period of six months or if any appeal is preferred before higher Courts, till disposal of the appeal.

Office is hereby directed to retain M.O.1 to 4 till disposal of case against absconded accused No.1 & 5.

(Dictated to the Stenographer Grade-I, transcribed by him, corrected, signed and pronounced by me in the open Court on this the 27th day of April, 2026)

(B.S. Rekha)

Prl. District & Sessions Judge,
Bengaluru Rural District,
Bengaluru.

ANNEXURE

List of witnesses examined for prosecution:-

P.W.1	Ajit Kumar Koluru
P.W.2	Hanumantha
P.W.3	L.T.Siddappa
P.W.4	Gurudeva H.K

List of documents exhibited for prosecution:-

Ex.P.1	Panchanama
Ex.P.2	Report
Ex.P.2(a)	Endorsement
Ex.P.3	FIR
Ex.P.4	Statement of P.W.2

List of witnesses examined for accused:-

NIL

List of documents exhibited for accused:-

NIL

List of material objects produced and got marked for prosecution:-

M.O.1	Iron rod.
M.O.2	Iron rod.
M.O.3 & 4	Chilly-powder packets.

Prl. District & Sessions Judge,
Bengaluru Rural District,
Bengaluru.