



**IN THE COURT OF THE III ADDL. DISTRICT &
SESSIONS JUDGE, CHIKKABALLAPURA**

PRESENT

SHRI. SIDDANNA B. HANDRAL.
B.Sc.,LL.B.
III Addl. Dist. & Sessions Judge,
Chikkaballapura.

Dated this the 28th day of July 2026

SESSIONS CASE No.36/2020

Complainant : The State by Bagepalli P.S.

//VERSUS//

Accused

1. Uday Shankar, S/o. Venkateshan,
Aged about 26 years,
R/at Karapakam,
Kancvhipuram, Chennai,
Tamil Nadu.
2. Abhinay, S/o. Late Hari,
Aged about 23 years,
R/at Kannige Shilai,
Mareena Beach, Chepak Road,
Chennai. (**SPLIT UP**)

1. Date of offense : 04.05.2019

2. Date of report of offense : 04.05.2019

3. Arrest of the accused / accused produced under body warrant : 23.07.2025

4. Date of release of : Accused is in J.C.

accused on bail.

5. Name of the complainant : Sri.P.M.Naveen, PSI
6. Date of recording evidence : 11.06.2026
7. Date of closing of evidence : 21.07.2026
8. Offences complained of : U/secs.399 and 402 of IPC.
9. Opinion of judge : Accused is acquitted of the aforesaid offences.
10. State-represented by : III-Addl. Public Prosecutor, Chikkaballapur.
11. Accused defense by : Sri.M.V. - Learned Deputy Defense counsel

J U D G M E N T

The Police Inspector of Bagepalli Police Station, has submitted the charge sheet against the accused in their P.S. Cr.No.87/2019 for the offences punishable under Section 399 and 402 of IPC.

2. Brief facts of the prosecution case are that, on 4.5.2019 at about 6.30 p.m. near the Nidumamidi Mutt on the road leading to Aivarlapalli village, Guluru Hobli, Bagepalli Taluk accused along with absconding accused no.2 to 5 have assembled together by holding deadly weapons like sticks, macs, iron rods with two wheelers with an intention to commit Dacoity in the houses situated at Guluru village and have made preparation to commit the alleged offences, break into the houses of Gulur village at night and robbing the houses of the un-

in-habited people in the village, robbing them the money and jewellery in the houses. The police by conducting the raid have caught hold the accused no.1 and 2 at the spot and the remaining accused persons have absconded and thereby complainant has lodged a complaint against the accused persons.

3. Based on the said complaint a case came to be registered against the accused in Cr.No.87/2019 of Bagepalli Police Station for the offences punishable under Section 399 and 402 of IPC and after completion of the investigation charge sheet has been filed against the present accused no.1 and 2 and other accused for the said offences and thereafter, the learned Civil Judge and JMFC, Bagepalli took cognizance of the offences and registered the case in C.C.No.186/2019 and committed the matter for trial against the accused no.1 and 2, as the offences punishable under Section 399 and 402 of IPC is exclusively triable by the court of Sessions and case against the accused no.3 to 5 was split up in CC No.140/2022 before the learned Magistrate.

4. After receipt of the committal order and records, case was registered in SC No.97/2025 before the Hon'ble Prl. Dist. & Sessions Judge, Chikkaballapur and has made over the case to this court for disposal in accordance with law.

5. Thereafter, accused no.1 & 2 were summoned out of them accused no.1 & 2 appeared through Advocate, and got enlarged on bail, subsequently accused no.2 remained absent inspite of issuance of

several NBWs, hence case against accused no.2 was split up and registered a separate split up case against accused no.2.

6. After perusal of the records and hearing the both sides, as there are prima facie materials found against the accused no.1 to frame charges, accordingly, charges were framed, read over and explained to the accused in the language known to him i.e. in Tamil language through translator. The accused no.1 has pleaded not guilty and claims to be tried, therefore the case was posted for trial.

7. In order to prove its case, the prosecution has examined totally 06 witnesses i.e. complainant CW-1 examined as PW-6, seizure mahazar panch witnesses i.e. CW 2, 3 examined as PW-1 and 4, respectively, eye witness i.e. CW-6 examined as PW-2, and owner of the two wheeler i.e. CW-9 examined as PW-3. The I.O. i.e. CW-12 examined as PW-5. The prosecution has given up CW-4,5, 7, and 8, 10 & 11 and got marked 9 documents as Ex.P-1 to P-9 and Mos 1 to 5 and closed its side.

8. Thereafter, closure of the evidence of the prosecution, the statement of the accused as required under Section 313 of Cr.P.C was recorded and the accused no.1 has denied the incriminating evidence appearing against him from the evidence of prosecution witnesses and he had not chosen to lead his evidence or examine any witnesses in support of his defence.

9. Heard the arguments on both sides.

10. After hearing both sides and perusal of the materials on record, the following points that arise for consideration:

1. Whether the prosecution proves its case beyond all reasonable doubt that, on 4.5.2019 at about 6.30 p.m. accused no.1 along with absconding accused no.2 to 5 assembled near the Nidumamidi mutt on the road leading to Aivarlapalli village, Guluru Hobli, Bagepalli Taluk were making preparation to commit dacoity by possessing deadly weapons and thereby committed an offence punishable u/Sec.399 of IPC?
2. Whether the prosecution proves its case beyond all reasonable doubt that, on the above said date, time and place accused no.1 along with absconding accused no.2 to 5 were assembled for the purpose of committing dacoity and thereby the accused has committed an offence punishable under section 402, I.P.C?
3. What order?

11. On careful scrutiny of the oral and documentary evidence of the prosecution and having heard the arguments by both sides, the above points are answered as under:

Points No.1 & 2: In the Negative

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

::R E A S O N S::

12. **POINT NO.1 & 2:** Since these points are inter connected to each other, hence, in order to avoid repetitions of facts and evidence, they are taken together for common discussion.

13. Case of the prosecution is stated in detail in the above paras and role of each witnesses is also mentioned, therefore there is no need to repeat the same.

14. CW-6 Sri.P.M.Naveen is the PSI and complainant examined as PW-6 he deposed that, on 4.5.2019 at about 6.30 p.m. he had received credible information and secured the CW-2 and 3 panch witnesses and his squad staff i.e. CW-4 to 8 and went to the spot in the government jeep bearing No.KA-40-G-537 at about 7.00 p.m. near Nidumamidi Mutt of Aivarlapalli village, and de-boarding the jeep and where they found 5 unknown persons were sitting near the mutt and planning to commit dacoity in the houses situated at Guluru village by holding deadly weapons. After verifying the same, they conducted raid and caught hold two persons at the spot i.e accused no.1 and 2 and remaining accused persons ran away from the spot. After enquiry of the accused no.1 and 2, they disclosed their name that 1. Uday Shekar of Tamil Nadu State and another one Abhinav @ Abhinav of Tamil Nadu State and they also disclose the names of the absconding

accused as Ravi, Sathish @ Ban and Rajkumar @ Vigneohwar. He further deposed that, he had searched the accused no.1 and 2 and he found two sticks, one iron rod, one machete, one Samsung key pad mobile and also two wheeler bikes bearing Regn.Nos. (1) TN 23- CC 8224 KTM company (2) TN 66P-2107 of Pulsar company and he has seized the said weapons and vehicles by drawing seizure mahazar as per Ex.P-1 and identified the said weapons are at MO-2 to 5 and seized vehicle is at MO-1. Thereafter he came to the police station along with the accused no.1 and 2 and seized vehicles and weapons and lodged the complaint against the accused persons as per Ex.P-7 and identified the accused no.1.

15. CW-6 - Sri.Bayyareddy S/o.Venkataramareddy police constable examined as PW-2. He asserts that, on 4.5.2019 at about 6.30 p.m. when he, CW-4, 5, 7 and 8 were in the station, by that time CW-1 called them and intimated that he had received credible information that, near Nidumamidi Mutt situated adjacent to the Aivarlahalli village, Guluru Hobli, Bagepalli Taluk by that time they found some unknown persons by holding deadly weapons with an intention to commit dacoity in the houses situated at Guluru village, and thereafter themselves and CW-1 left the police station and reached the spot where they found 4-5 persons were holding deadly weapons in their hands and talking about their preparation to commit dacoity in the houses and on seeing them the said persons tried to escape from the spot, at that time they caught hold two persons and remaining persons were ran away from the spot and on enquiry of the said persons they disclosed

their names as Uday shekar and Abhinav and are resident of Channai of Tamil Nadu State and they possessed two wooden clubs, one iron rod one machete and one Samsung keypad mobile and two motor cycles bearing Regn. No.TN 23 CC-8224 and another bearing No.TN 66 T 2107 and the said weapons and two wheelers have been seized by CW-1 by drawing panchanama as per Ex.P-1 and he also put signature to the said panchanama which is at Ex.P-1(b). He further stated that, on enquiry of the accused persons they disclosed the names of the absconding accused persons i.e. Sathish @ Bun, Ravi and Rajkumar and he also identified the accused no.1 before the court and seized weapons and mobile phone are at MO-2 to 5 and two wheeler at MO-1.

16. CW-9 i.e. Kashi.M. S/o.V.Marimuttu examined as PW-3 who is the owner of the seized two wheeler vehicle bearing TN 23 CC-8224 of KTM company. He deposed that, he is the owner of the said two wheeler and his son use to take the said vehicle and traveling from Thoraipakkam to Navalur and he left the said vehicle at Thoraipakkam and went along with his friend in a car and on the next day he came and saw his vehicle but it was not there, and thereafter she lodged the complaint at Thoraipakkam police station and after one week the Bagepalli police called to his son and informed about the seizure of the said bike and he came to the police station and identified the same and got released the said vehicle by executing the indemnity bond as per Ex.P-3 and identified his two wheeler is at MO-1. But PW-3 deposed that, he do not know the name of the person who had

committed theft of his motor cycle and none of the person shown his bike in the police station and he do not know about who had taken his bike and what they had committed the offence and he did not identified the accused and states that, he had not given any statement before the police as per Ex.P-4. The learned public prosecutor treated the witness as hostile and cross examined in length, but nothing has been elicited about the incident in question and also regarding identification of the accused.

17. CW-2 Venkataramanappa examined as PW-1 and CW-3 Narasimha Murthy examined as PW-4 who are the panchas to the seizure mahazar i.e. Ex.P-1. PW-1 and 4 in their evidence they did not supported the case of prosecution and turned hostile. Except admitting their signatures on Ex.P-1, they have not stated anything about the alleged seizure of the MO.1 to 5 from the possession of the accused and have also ignored the contents of the seizure mahazar i.e. Ex.P-1, and have not identified the MO.1 to 5 and also the accused persons and have also deposed that, they did not given any statement before the police. The learned public prosecutor treated the witnesses as hostile and cross examined in length, but nothing has been elicited about the incident in question and also regarding identification of the accused and also regarding the seizure of the MO-1 to 5 by drawing the seizure mahazar by CW-1 as per Ex.P-1. Therefore, their evidence is not helpful for the prosecution to prove the seizure of the MO.1 to 5 in their presence by drawing panchanama

and also identification of the accused and the incident in question.

18. CW-12 Sri. C.Naryanaswamy S/o. Late Chinnappa retired PSI examined as PW-5. He states that, on 4.5.2019 at about 8.00 p.m. CW-1 came to the police station and gave complaint as per Ex.P-7 and based on the said complaint, registered the FIR as per Ex.P-8. Thereafter he has arrested the accused no. 1 and 2 and recorded their voluntary statements. On the same day he recorded the statements of the CW-2 to 8 and identified the accused no.1 and seized weapons and vehicle are at Mo.1 to 5. He further deposed that, after completing the investigation has filed the charge sheet against the accused persons.

19. Relying on the evidence placed on record, the learned public prosecutor vehemently argued that, the prosecution has proved the guilt of accused no.1 punishable U/S.399 and 402 of IPC beyond all reasonable doubt through the evidence of official witnesses. There is no rule to disbelieve the testimony of the police officials. The accused persons have committed the heinous offence punishable under the penal code and it is the fit case for conviction with maximum punishment.

20. On the other hand, the defense counsel for the accused no.1 vehemently argued that, all the witnesses examined before the court are the police officials. The prosecution has failed to secure the independent witnesses to prove its case. The evidence of the police officials suffers from inconsistencies and discrepancies.

It is highly improbable to believe that accused no.1 has committed the alleged offences at the place of incident, in the absence of any complaint by victims or passersby or villagers, this creates serious doubt about the prosecution case that, it is filed for statistical purpose. Hence benefit of doubt may kindly be extended to the accused no.1 and acquit for the alleged offences.

21. In the light of rival arguments, it is just and proper to scrutinize the oral and documentary evidence produced by the prosecution. On careful going through the evidence of PW-6, 2 and 5 though the PW-6 and 2 have stated that, on 4.5.2019 at about 6.30 to 7.00 p.m. the accused persons assembled at the spot by holding deadly weapons and were making preparation to commit dacoity in the houses of Guluru village, but to corroborate their versions, independent panch witnesses have not supported to prove the contents of Ex.P-1 and 7 i.e. panchanama and complaint, their oral evidence is not reliable.

22. In the absence of corroboration of independent private witnesses, the evidence of police officials i.e. PW-6, 2 and 5, remains for consideration of the court. The evidence of PW- 6 and 2 is appears to be stereo type. No doubt the evidence of official witnesses i.e. police officials shall not be disbelieved as a rule, however prudence insist corroborations and careful scrutiny. As per the case of prosecution CW-1 has conducted raid at 7.00 p.m. near Nidumamidi Mutt adjacent to Aivarapalli village, Guluru Hobli, i.e. on the public place, next to the road, as

admitted by the CW-1 in his cross examination hence it goes to show that, the alleged spot appears to be a thickly populated area, in the evening hours there is chances of more persons available near the place of incident. Such being the case, what prevented the CW-1 to take statement and signatures of the independent eye witnesses to the alleged raid and seizure of deadly weapons and two wheelers from the possession of the accused no.1 is not properly explained. This throws shadow on the prosecution case, particularly considering the nature of the offences and the fact that, complainant has been registered by CW-1, it appears that, just for the sake of statistical purpose registered case against the accused person, hence uncorroborated testimony of police witness is unsafe to believe.

23. Even in addition to the above, no valuable things are recovered from the possession of any of the accused persons. Merely because some incriminating articles were seized from the possession of the accused person and two wheelers that too in the absence of in which crimes the said two wheelers were committed theft, by itself is not conclusive proof of main ingredients of Se.399 and 402 of IPC. Defense of the accused is total denial of the prosecution case, mere apprehending of accused no.2 is also not enough to record conviction.

24. In this regard it is relevant here to refer the decision of Hon'ble Apex Court of India decided in **2006 Crl.L.J. 1775- in case of Ramakishan VS State of U.P.** Wherein it is held as under:

“Penal code (45 of 1869) Ss.399, 402 - Preparation to commit dacoit- arrest of accused persons along with arms and ammunition- No public witness summoned to witness incident- Neither signature of the accused were obtained- Neither signatures of the accused were obtained on seizure memo nor copy therefore was furnished to any of accused - Out of six dacoits, three were armed with country made pistols and were having 10 life cartridges also - However, none of them had loaded pistols- Is also could not be believed that accused dacoits who has assembled at culvert were talking so loudly that their voice was heard by police party in odd hours of night - Police party did not recover a single penny from possession of any accused - Non recovery of coins or currency notes from packets of accused makes prosecution story doubtful - Accused held entitled to be acquitted.”

In the light of principles of law laid down in the above decision the present facts of the case on hand are scrutinized, it is difficult to believe that police officials overheard the plan of accused no.1 from considerable distance. Complainant has not summoned local public witness to act as panchayathdars. Signature of the accused no.1 and others were not obtained to the seizure or copy of the said seizure were not furnished to the accused. Hence this court has no hesitations to arrive at conclusion that the prosecution has failed to prove the ingredients of the alleged offences.

25. It is also relevant here to refer the decision of Hon'ble Supreme Court of India in the case of **Suleman VS State of Delhi through Secretary**, wherein the

offences U/S.399 and 402 of IPC is involved, pleaded to observe that, it was doubtful that accused would be speaking so loud about dacoity plan that the police personnel standing outside the room, would hear it. In a similar case the Hon'ble Punjab and Haryana High Court reported in **2011 SCC online P & H 3418-** in the case of **Bagga @ Bangu VS State of Haryana-** it is observed that, it is improbable that after secret information was received till police party reached at the spot, the accused were continuing to reach their plan. it is also very improbable that at the very nick of the moment when the police party reached at the spot, the accused started their conversation, the same view was expressed by Hon'ble High Court in **Piru and others VS State of Haryana.**

26. Regarding recovery of the weapons from the accused, the Hon'ble Supreme Court of India reported in **(1979) 3 SCC 430** in the case of **Chaturi Yadav and others VS State of Bihar** way back in the year 1979 observed that mere fact that, the accused were found at 1.00 a.m. with some of them armed with guns did not prove that, they have assembled for the purpose of committing dacoity or for making preparation to accomplish that object. Similar view is taken by the Hon'ble Delhi Court reported in **2000 CrI. L.J. 2083** in the case of **Desraj @ Dass VS State and Punjab and Haryana High Court in Mahaveer VS State of Haryana** decided in **CrI. A. No.26-SB of 2002 dated 18.5.2010** for mere assemblage and recovery of fire arms did not prove charge U/S.399 and 402 of IPC. Division Bench of Hon'ble Apex Court in the case of **Jasveer Singh**

Aka Jawari Aka Jabbar Singh VS State of Haryana, wherein it is observed that, 'it is not natural that, 6 accused persons and 4 of whom were armed with deadly weapons, neither offered any resistance nor caused any injury to any police personnel before or after apprehension by the police. The ratio laid down in the above said decision is aptly applicable to the case on hand.

27. It is also relevant here to mention that the Hon'ble High court of Karnataka in the judgment passed in **Crl. A. No.3767/2010** in the case of **Gaddeppa VS State of Karnataka** it is held that, to prove the offence of preparation for committing dacoity nothing elicited as to for what purpose accused persons gathered there. Whether there was any attempt done by them in order to commit dacoity. Nor shown that, they had actually stopped any vehicle and any owner or driver of the vehicle complained that, they had made any attempt to commit dacoity. Mere recovery of some articles and also non explanation of the accused as to why they had gathered in that particular place is not sufficient to fill up the gap on the side of prosecution to prove that, accused were actually gathered there for the purpose of committing dacoity. Except presence of the accused persons at the spot, recovery of some articles and voluntary statement of the accused no other materials to show that, they were gathered for the purpose of committing dacoity. Mere suspicion or imagination by the police officer bereft of any other materials is not sufficient to draw a conclusive inference that accused persons were gathered there for the purpose of committing dacoity.

28. In another judgment passed by the Hon'ble High Court of Karnataka in **Crl. A. No.2088/2017 c/w Crl. A.No.2066 to 2068 of 2017** wherein it is held that, circumstances brought out in the evidence of prosecution witnesses completely demolish the case of prosecution. Evidence adduced by the prosecution does not establish the ingredients of the offences punishable U/S.399 and 402 of IPC. There is no clear and convincing evidence to show that weapons produced before the court were seized from the possession of the accused.

29. Hence, the above law laid down by the Hon'ble Supreme Court of India and High Court of Karnataka is aptly applicable to the facts and circumstances of the present case on hand. Admittedly, complainant and other police officials assisted to conduct the raid have not enquired any general public regarding attempt of the accused persons to commit dacoity. So also no such complaint is lodged against accused persons. In the light of principles of law laid down in the above decisions mere assemblage of accused persons with deadly weapons does not establish the ingredients of Se.399 and 402 of IPC. Moreover, the recovery of deadly weapons and two wheelers are not supported by evidence of independent panch witnesses.

30. Hence, from the discussions made in the foregoing paras, this court is of the considered opinion that, prosecution clearly fails to prove beyond all reasonable doubt that accused no.1 along with other accused persons were present on 4.5.2019 at about 6.30

p.m. CW-1 has received the credible information about the assemblage of accused no.1 and other accused persons by possessing deadly weapons and making preparation to commit dacoit of valuable things and the money from general public. The prosecution has also clearly fails to prove that, the CW-1 has recovered the M.Os.1 to 5 from the accused no.1 by drawing Ex.P-1 raid panchanama. Evidence of PW-6 and 2 is not sufficient to connect the guilt of accused as same is not free from doubt. Except the statement of official witnesses i.e., PW-2, 5 and 6, no material is placed before court to connect the guilt of the accused and evidence given by PW-2, 5 and 6 is not free from doubt. Hence this court is of the considered opinion that, their evidence is not reliable to be taken into consideration to connect the guilt of the accused. Evidence before the court is not sufficient and free from doubt to connect the guilt of the accused. Whenever doubt arises in the mind of the court about the case of prosecution, then accused is entitle for claiming the said benefit of doubt in his favour. Accordingly, by extending benefit of doubt in favour of the accused No.1, this court is of the considered opinion that, prosecution has utterly fails to prove its case as against the accused No.1 as alleged in the charge sheet. Hence, point No.1 and 2 are answered in the **NEGATIVE**.

31. **Point No.3:** In the light of discussions made above and answers to the above Points, the accused is liable to be acquitted, hence, it is just and necessary to proceed to pass the following:

:: ORDER ::

By acting under Section 235(1) of Cr.P.C, the accused no.1 is acquitted for the offences punishable under Section 399 and 402 of IPC.

Bail bond and cash security executed earlier by the accused No.1 stands continued for the same as required under Section 437A of Cr.P.C till expiry of the appeal period or six months which ever is later.

The properties seized in this case MO.1 to 5 and another two wheeler bearing its Regn. No.TN 66-2107 pulsar 220 vehicles are ordered to be returned as split up case against other accused persons is pending.

(Dictated to Stenographer directly on the computer, printout corrected, signed and then pronounced by me on this 28th day of July, 2026)

(Siddanna B. Handral)
III-Addl. District & Sessions Judge,
Chikkaballapur.

ANNEXURES**LIST OF WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION:**

P.W-1 : Venkatesh
P.W-2 : Bayyareddy

P.W-3 : Kashi.M.
P.W-4 : Narasimhamurthy
P.W-5 : Narayanaswamy
P.W-6 : P.M.Naveen.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE ACCUSED:

: NIL

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PROSECUTION:

Ex.P.1 : Mahazar
Ex.P.1(a),(b), : Signatures
(c)
Ex.P.2 : Statement of witness
Ex.P.3 : Bond
Ex.P.3(a) : Signature of PW-3
Ex.P.4,5 : Statements of PW.3 & 4
Ex.P.6 : Indemnity bond with consent
Ex.P.6(a) : Signature of CW-12
Ex.P.7 : Report
Ex.P.7(a) : Signature of CW-12
Ex.P.8 : FIR
Ex.P.8(a) : Signature of CW-12
Ex.P.3(b) : Signature of CW-12
Ex.P-9 : Voluntary statement of A-1
Ex.P.9(a) : Signature of CW-12
Ex.P.1(c) : Signature of PWs.6
Ex.P.7(b) : Signature of PW.6.

LIST OF DOCUMENTS MARKED ON BEHALF OF THE ACCUSED :

: N I L.

LIST OF MATERIAL OBJECTS MARKED ON BEHALF OF PROSECUTION:

- MO.1 : KTM Two wheeler bearing Regn.No.TN-23-CC-8224 another two wheeler bearing its Regn. No.TN 66-2107 pulsar 220 vehicle
- MO.2 : Two clubs
- MO.3 : One iron Machete
- MO.4 : One iron rod
- MO.5 : One Samsung mobile.

(Siddanna B. Handral)
III-Addl. District & Sessions Judge,
Chikkaballapura.