



**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 31st day of July 2026

SESSIONS CASE No.66/2024

Complainant : The State by Gowribidanur Town
P.S.

//VERSUS//

- Accused**
1. Naveen Kumar,
S/o. Raju,
Aged about 24 years,
R/ near Sathya Sai School,
Vinayaka Nagara,
Gowribidanur Town,
Chickballapur District.
 2. Anand, S/o. Venkatesh,
Agee about 26 years,
Residing in front of Municipal
School, Vinayaka Nagara,
Gowribidanur Town,
Chickballapur District.
 3. Manikanta, S/o. Suresh Kumar,
Aged about 29 years,
R/at Razaq Sab Galli,
Gowribidanur Town,
Chickballapur District.

4. Dhanush **(SPLIT UP)**

5. Akram Basha **(SPLIT UP)**

1. Date of offense : 01.03.2024
2. Date of report of offense : 01.03.2024
3. Arrest of the accused no.3 / accused produced under body warrant : 16.10.2025
4. Date of release of accused on bail. : A-1- 29.10.2024, A 2-22.11.2024
A-3- 20.9.2024
5. Name of the complainant : Smt.Shubambika.R.
6. Date of recording evidence : 16.10.2025
7. Date of closing of evidence : 23.07.2026
8. Offences complained of : U/secs.399 and 402 of IPC.
9. Opinion of judge : Accused persons are acquitted of the aforesaid offences.
10. State-represented by : III-Addl. Public Prosecutor, Chikkaballapur.
11. Accused defense : Sri.M.S.A. Adv. for A-1, Sri.H.N.M. Adv. for A-2 and Sri.H.R.V. Adv. for A-3

J U D G M E N T

The Police Inspector of Gowribidanur Town Police Station, has submitted the charge sheet against the accused in their P.S. Cr.No.35/2024 for the offences punishable under Section 399 and 402 of IPC.

2. Brief facts of the prosecution case are that, on 1.3.2024 at about 1.00 a.m. on D.Palya road side towards Gotakanapur village, next to the Bangalore-Hindupur Bypass, Gowribidanur the accused No.1 to 3 along with the split up accused no.4 and 5 intercept people or vehicles plying on the road with an intention to commit robbery of their money, valuables etc, by holding dangerous weapons such as sticks and machete in their hands by threatening them. The police Inspector along with his police squad by conducting the raid have caught hold the accused No.1 to 3 at the spot and the remaining accused persons have absconded and thereafter they searched the accused no.1 to 3 and found the weapons i.e. sticks and machete and seized them by drawing seizure panchanama in the presence of panchas and thereafter took the accused persons along with the seized articles and came to the police station and lodged the complaint against the accused persons for initiation of legal action.

3. Based on the said complaint a case has been registered against the accused No. 1 to 3 and other absconding accused in Cr.No.35/2024 of Gowribidanur Town 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 to 3 and other accused for the said offences and thereafter, the learned Prl. Civil Judge and JMFC, Gowribidanur took cognizance of the offences and registered the case in C.C.No.938/2024 and committed the matter for trial against the accused no.1 to 3 as the

offences punishable under Section 399 and 402 of IPC is exclusively triable by the court of Sessions and split up the case against the accused No.4 and 5.

4. After receipt of the committal order and records, case was registered as SC No.66/2024 and the Hon'ble Prl. Dist. & Sessions Judge, Chikkaballapur has made over the case to this court for disposal in accordance with law.

5. Thereafter, accused no.1 to 3 were summoned and they appeared through their Advocates, and got enlarged on bail.

6. After perusal of the records and hearing the both sides, as there are prima facie materials found against the accused no.1 to 3 to frame charges, accordingly, charges were framed, read over and explained to the accused in the language known to him. The accused no.1 to 3 have 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 11 witnesses i.e. complainant CW-1 examined as PW.1, mahazar witnesses CW.2 to CW.9 as PW.2, PW.3, PW.8, PW.4, PW.9, PW.10, PW.5 and PW.6. respectively. The prosecution has given up CW.10, 12, 13, 14 and I.O. i.e. CW.11 and 15 examined as PW.7 and PW.11 respectively and got marked 18 documents as Ex.P-1 to P-18 and identified 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 to 3 have denied the incriminating evidence appearing against them from the evidence of prosecution witnesses and they have not chosen to lead their evidence or examine any witnesses in support of his defence. The accused got marked two documents on his behalf as Ex.D-1 and D-2 during the course of cross examination of PW.15.

9. Heard the arguments on both sides.

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

1. Whether the prosecution proves its case beyond all reasonable doubt that, on 1.3.2024 at about 1.00 a.m. on the D.Palya road side towards leading to Gotakanapur village, next to the Bangalore-Hindupur Bypass, Gowribidanur the accused No.1 and 3 along with the split up accused no.4 and 5 were assembled together and 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 to 3 along with absconding accused no.4 & 5 were assembled for the purpose

of committing dacoity and thereby the accused has committed an offence punishable under section 402 of 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. The complainant CW.1 / PW.1 Shubhambika.R. deposed that, she had lodged the complaint in this case and on 29.2.2024 she was on petrolling duty along with CW.11 and 12, when they reached Gotakanapura road at around 1.00 a.m. midnight on 1.3.2024 near a bush on the left side, heard the voices of some persons talking to each other by sitting and holding clubs and machetes in their hands and planning to commit robbery, on seeing them she left her staff at the spot and returned to the police

station, where she lodged the written complaint as per Ex.P-1. PW.1 further deposed that, though she had seen the unknown persons who were sitting at the spot on that day from certain distance but she is unable to identify them if seen them again.

15. PW.1 in her cross examination admitted that, she had seen the accused persons in the bushes about 50 feet away and they were talking to each other, but the accused persons did not noticed them. She further admits that, after seeing the accused persons they did not made an attempt to catch them and the accused persons were sitting at a distance where an electrical pole was existed. She further admits after lodging the complaint she did not go to the spot and also admits that, she did not seen particularly which weapon was held by which person. She further states that, the accused persons were visible under the light of the electrical pole. She also admits that, she had not mention the details of the electric pole in Ex.P-1 and there is a public movement on the Gotakanapura road mentioned by her. She also admits that, she had not clearly seen the facial features or age of the accused persons and she has been provided with mobile phone by the Government and she would have called the station from the spot to register a complaint and call more staff to the spot, but she did not call additional staff to the spot. She also admits that, as per Ex.P-1 she did not attempt to catch the group of persons present at the spot and reasons for non attempting to arrest the said persons is not mentioned in Ex.P-1.

16. The prosecution has examined the panchas to the Ex.P-2 spot mahazar and independent witnesses to the incident in question i.e. CW.2 and 3 as PW.2 and 3 who have not supported the case of prosecution and turned hostile. PW.2 and 3 in their evidences except admitting their signatures on Ex.P-2, and snapping the photographs, they denied the conducting of panchanama in their presence and contents of Ex.P-2 and also admits that they did not given any statements before the police as per Ex.P.4 and P-3. The learned Public Prosecutor treated PW.2 and 3 as hostile witnesses and cross examined in length, but nothing has been elicited to believe their evidence. Hence, the evidence of PW.2 and 3 is not at all helpful for the prosecution to prove the drawing of spot panchanama on the spot in the presence of PW.2 and 3 and they were also accompanied with the I.O. and other police at the time of conducting the alleged raid.

17. The prosecution has examined the panchas to the Ex.P-5 two wheeler recovery panchanama i.e. CW.4 and 5 as PW.8 and 4 respectively who have not supported the case of prosecution and turned hostile. PW.4 and 8 in their evidences except admitting their signatures on Ex.P-5, they denied the conducting of seizure mahazar of two wheeler at the instance of accused no.1 in their presence and also admits that, they do not know the contents of Ex.P-5 and also admits that they did not given any statements before the police. The learned Public Prosecutor treated PW.4 and 8 as hostile witnesses and cross examined in length, but nothing has been elicited to believe their evidence. Hence, the evidence of PW.4 and 8

is not at all helpful for the prosecution to prove that the I.O. has seized Jupiter Red colour two wheeler bearing Regn.No.KA-02-HY-8208 drawing of seizure mahazar as per Ex.P-5 in the police station in the presence of PW.4 and 8 and they were also given their statements as per Ex.P-6 and 10 respectively.

18. The prosecution has examined the panchas to the Ex.P-11 and 12 spot mahazars as shown by the accused No.1 and 2 i.e. CW.6 and 7 as PW.9 and 10 respectively, but who have not supported the case of prosecution and turned hostile. PW.9 and 10 in their evidences except admitting their signatures on Ex.P-11 and 12, they denied the conducting spot mahazars as shown by the accused no.1 and 2 in their presence and also admits that, they do not know the contents of Ex.P-11 and 12 and also admits that they did not given any statements before the police as per Ex.P-13 and 14. The learned Public Prosecutor treated PW.9 and 10 as hostile witnesses and cross examined in length, but nothing has been elicited to believe their evidence. Hence, the evidence of PW.9 and 10 is not at all helpful for the prosecution to prove that the I.O. has conducted the spot mahazars as shown by the accused no.1 and 2 as per Ex.P-11 and 12 in the presence of PW.9 and 10 and they were also given their statements as per Ex.P-13 and 14 respectively.

19. The prosecution has examined the panchas to the Ex.P-7 gold ornament recovery panchanama i.e. CW.8 and 9 as PW.5 and 6 respectively, but who have not

supported the case of prosecution and turned hostile. PW.5 and 6 in their evidences except admitting their signatures on Ex.P-7, they denied the conducting of recovery of gold ornaments from the Mahalakshmi Jewelers shop at Gowribidanur Town at the instance of accused no.1 to 3 in their presence and also admits that, they do not know the contents of Ex.P-7 and also admits that they did not given any statements before the police as per Ex.P.8 and 9. The learned Public Prosecutor treated PW.5 and 6 as hostile witnesses and cross examined in length, but nothing has been elicited to believe their evidence. Hence, the evidence of PW.5 and 6 is not at all helpful for the prosecution to prove that the I.O. has recovered golden ornaments from the Mahalakshmi jeweler shop at the instance of accused no.1 to 3 by drawing recovery panchanama as per Ex.P-7 in the presence of PW.5 and 6 and they were also given their statements as per Ex.P-8 and 9 respectively.

20. The prosecution has also examined police constable who accompanied with the complainant at the time of conducting the raid i.e. CW.11 as PW.7 who in his evidence stated that, on 29.2.2024 he along with CW.12 and CW.1 were on pertolling duty moving in Government jeep bearing No.KA-40- G-281 driven by one Harish PC 76 and came from Gowribidanur town, Madanahalli, Sadashiva Nagar, Nadigadde, Vinayaka Nagara, Hirebidanur and reached near Gotakanapura road through the D.Palya road at about 1.00 a.m. they stopped their vehicle and near a stream bed and saw inside a bush a group of people had assembled by holding clubs,

machetes, long, choppers in their hands and they were discussing about stopping of public passing by on the road to rob them of valuable items and cash and planning for dacoity, at that time CW.1 instructed him and CW-2 to stay there hidden and keep watch while she went to the police station to register a complaint.

21. He further deposed that CW-15 arrived in the same jeep along with panch witnesses and other police staff and thereafter they all went to the spot where the accused assembled on seeing them they started to ran away from the spot, they surrounded and caught hold three accused and the remaining accused flee away from the spot and after enquiry they disclosed their names and also revealed about the absconded accused persons. Thereafter CW.15 recovered the machete, dragger, iron rod, long chopper by drawing seizure mahazar on the spot and he had signed to the said mahazar and thereafter they returned to the police station along with the accused and seized articles and identified the seized weapons are at MO.1 to 5.

22. He also deposed that, in the police station on the same day at evening about 4.00 p.m. the accused no.1 has shown the TVS two wheeler which was parked infront of his house by that time he was guarding the accused persons and the said two wheeler was seized by drawing the panchanama and thereafter on 4.3.2024 at about 1.30 p.m. they took he accused no.1 and 2 and in turn they taken them to the Mahalakshmi Jewelers on the Bazaar street in the Gowribidanur where they sold ornaments

robbed by them during previous robbery and the said ornaments were recovered by drawing mahazar and thereafter they returned to the police station along with the accused persons.

23. PW-7 in his cross examination admitted that, they started petrolling duty during night time at about 11.00 p.m. and the alleged spot of the incident is about 500 meters away from the National Highway and when they reached the spot at about 1.00 a.m. but he do not know what kind of trees inside that bush and if there was light inside the bush. He also admits that, he and CW-1 and 12 had mobile phones and have not informed to the police station through their mobile phones. He also admits that, when CWs.1 and 12 left the spot to file complaint by that time they faced no obstacles and CW.15 arrived at the spot about 3.00 a.m. and when they were keeping watch, the accused did not come on to the road and they were standing about 10-12 meters away from the accused and no members of the public passed by on the road and the jeep driver brought the CW.15 to the spot and parked the jeep far away.

24. He further admits that, he cannot say exactly at what time accused no.3 taken into custody and he had not signed on the chits which were affixed on the Mos. He had given the statement on the date of incident and he cannot say exactly how long they remained at the spot after CW.15 arrived and how much time taken for drawing the mahazar and he do not know who brought the vehicle from the spot to the station and he do not remember what was

written in the mahazar conducted at Mahalskhmi jewelers. He also admits that neither he nor CW.1, 12 and jeep driver took photos or videos of the incident seen in their mobile.

25. The prosecution has also examined I.O. i.e. CW.15 as PW.11 who in her evidence deposed that, on 01.03.2024, upon receiving a complaint from CW-1, registered a case in their P.S. Crime No. 35/2024 for the offences punishable U/S. 399 and 402 of the Indian Penal Code (IPC) and sent the FIR to the court, complaint is at Ex.P-1, and her signature is at Ex.P.1(b), and identified FIR is at Ex.P-15 and on the same day, secured panch witnesses CW-2 and CW-3 to the station, and requested their cooperation and thereafter they along with station staff i.e. CW-13, CW-14, Vinay, and jeep driver APC Harish, proceeded to the spot by that time, CW-11 and CW-12 were already guarding the spot where three accused persons had been detained.

26. She further deposed that she had conducted a spot inspection and seized a long chopper, sickle, dagger, and a club from the accused under seizure panchanama drawn between 2.15 a.m. and 3.15 a.m. which is at Ex.P-2, and photographs were taken during the panchanama. She identified the accused persons caught at the spot I,e, accused no.3 is before the court and accused no.2 secured through V.C., since Accused No. 1 is absent, and his counsel has not disputed regarding identity she also identified seized iron rod, an iron sickle, a dagger, another iron rod, and a club which are at MO.1 to 5 and thereafter

she brought the accused and the seized properties back to the station.

27. She further deposed that, she has recorded the voluntary statements of Accused Nos. 1 to 3 and in their voluntary statements, they disclosed about their involvement in earlier cases registered under Section 392 IPC at the Gauribidanur Town Police Station in Crime Nos. 239/2022 and 45/2023 and accused no.1 confessed that, "If I am taken, I will show the places where we committed robberies and show the shops where the ornaments were sold," and the said portion is marked as Ex.P-16 and signature of the accused is at Ex.P-16(a), the accused no.2 also confessed that "If I am taken, I will show the places where we snatched chains and the gold shops where we sold the ornaments," and the said portion is marked as Ex.P-17, and the signature of the accused is at Ex.P-17(a). Thereafter, she applied for handing over of the police custody of the accused persons to the court in turn the court has handed over the accuse persons to the police custody 1.3.2024 to 4.3.2024.

28. She further deposed that, she had recorded the voluntary statement of the accused no.3 in voluntary statement the accused no.3 confessed about the commission of the offence which is at Ex.P-18 and the signature of the accused No.3 is at Ex.P-18(a). On the same day she had seized the two-wheeler bearing registration No. KA-02 HY-8208 used by the accused no.1 for the offense in the presence of panchs I.e. CW-4 and CW-5 by drawing seizure mahazar as per Ex.P-5.

On 02.03.2024, during interrogation while in police custody, the accused confessed about their involvement in snatching of a gold chain from a woman in Konapura Village Road and in this regard a case has been registered by the Gowribidanur Police in their P.S. Crime No. 125/2025 for the offence P/U/S 392 IPC and thereafter on 03.03.2024, the accused and panchs I.e. CW-6 and CW-7 accompanied them to Bank Colony in Gauribidanur Town, where a spot panchanama was conducted between 1.00 p.m. to 2.00 p.m. as shown by the accused as per Ex.P-11. On the same day, in respect of another case of Gauribidanur Town PS Crime No. 45/2023 registered under Section 392 IPC, the accused persons shown the spot which is in front of the house of S. B. Nagabhushan in Muneshwara Layout, Gauribidanur, where spot panchanama was drawn between 2.30 p.m. to 3.30 p.m. in the presence of CW-6 and CW-7 as per Ex.P-12.

29. She further deposed that, on 01.03.2024, she recorded the statements of witnesses I.,e. CW-3 to 5 and CW-11 to 14 and CW-3 and 4 given their statement before her as per Ex.P-3 and 10 and on 03.03.2024, she recorded statements of CW-6 and CW-7 and they had given their statement as per Ex.P-13 and 14 respectively.

30. She further deposed that on 04.03.2024, based on the voluntary statements of the accused no.1, she took Accused Nos. 1 and 2, along with panch witnesses CW-8 and CW-10, had been to the Mahalakshmi Jewelers on Bazaar Street, Gauribidanur where the owner of Mahalakshmi Jewelers produced 3 golden mangalya chains

and same were seized under recovery panchanama as per Ex.P-7 and thereafter returned to the police station and produced the accused no.1 to 3 before the court along with remand application. Thereafter she recorded the statements of CW-8 and CW-9 as per Ex.P-8 and P-9 respectively since accused Nos. 4 and 5 in this case could not be traced despite sincere efforts made and as the investigation was completed, charge sheet was submitted to the court against the accused no.1 to 5.

31. PW.11 in her cross-Examination admitted that, when a complaint is made over the phone from the scene of an offense, they do not register the case, but instruct them to appear at the station and give a written statement. She further admits that the names and addresses of the accused are not mentioned in the Ex.P.1 complaint and the FIR does not disclose about the names of the persons caught hold at the spot.

32. She further admits that, when FIR was registered by that time CW-2 and CW-3 were not present at the station and after registering the FIR, she summoned CW-2 and CW-3 to the station through notice, and they arrived within 10 minutes and also admitted that CW-2 and CW-3 are residing in an area situated behind the police station and when she called CW-2 and CW-3, they were standing near the station circle and the presence of CW-2 and CW-3 near the station circle is not recorded in the mahazar. She further admits that, when she reached the spot, the police had already caught and detained the accused and the place where she met the police team was

dark and completely no any light source. She further admits that the voluntary statements of Accused Nos. 1 and 2 do not contained the date or the specific time period during which they were recorded and also admitted that, she had not obtained and produced the ownership documents of the seized two-wheeler.

33. PW.11 further admits that, CW.6 and 7 are not the local persons where she had conducted the panchanama on 3.3.2024 in Bank colony, 14th ward, Gowribidanur Town and in Vigneshwara Badavane at Gowribidanur and also admitted that, there were shops and residential houses are situated near the said spots and there was no problem for her to secure the local persons as panchas to the panchanama.

34. She further admits that, the panchas i.e. CW.8 & 9 to the panchanama where the recovery panchanama was conducted at Mahalakshmi Jewelry shop and there were shops adjacent to the said shop and she has not recorded the statement of the owner or the labourers who were working in the said jewelry shop. She further admits she had recorded the statements of CW.11 and 12 on 1.3.2024 and in the said statements they have given statement that, on 4.3.2024 at about 1.30 p.m. they were guarded the accused no.1 and 2 while conducting the different panchanamas as they were involved in different cases and the said statement marked as Ex.D-1 and D-2.

35. She further admitted that, CW-11 and CW-12 did not stated in their statements that the police had already caught and detained the accused persons, by the

time she reached to the spot, but she volunteers that they had given statement that, they were keeping watch and also admitted that, she had not produced the documents regarding the registration of Crime Nos. 239/2022 and 45/2023 against Accused Nos. 1 and 2 at Gauribidanur Town PS in this case and further admitted that, CW.1 was not having any hindrance for conducting raid on the accused and to make an enquiry of the accused.

Conclusion and Evaluation of evidence

36. Relying on the evidence placed on record, the learned public prosecutor vehemently argued that, the prosecution has proved the guilt of accused no.1 to 3 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.

37. On the other hand, the defense counsel for the accused no.1 to 3 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 to 3 have committed the alleged offences at the place of incident, in the absence of any complaint by victims or passersby or villagers and the prosecution has fails to prove the recoveries and spot mahazars by

examining the independent witnesses and all the mahazar and independent witnesses examined on behalf of the prosecution did not supported the case of the prosecution, 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 to 3 and acquit for the alleged offences.

38. In the light of rival arguments of learned P.P. and counsel for accused, on careful perusal of the evidence led by the prosecution it appears that, PW.1,7 & 11, in their evidence they have stated that they reached the spot and saw the accused persons at about 1.00 a.m. but the PW.1 left the spot with an intention to file a complaint, however PW.7 admits that, himself and another staff stayed there till arriving of CW-15 at about 3.00 a.m. and PW.7 also claims that, he stood 10 to 12 feet away from accused persons armed with deadly weapons without being spotted hence the conduct of the PW.7 cannot be acceptable one as it is not possible for the accused persons till arriving of the CW.15 they were on the spot that too in the open area where the PW.7 was keeping watch till arriving of CW.15.

39. It is also relevant here to mention that the I.O. i.e. PW.11 at para no.18 and 19 admitted that, she had recorded the statements of the CW-11 and 12 on 1.3.2024 specifically describing the events, timings, and recoveries that took place later on 04.03.2024 at Mahalakshmi Jewelers, hence the I.O. cannot record statement on 1.3.2024 detailing an event that has not yet occurred until

4.3.2024 which clearly shows that the statements are created by the police at the station.

40. It is also important here to mention that PW.11 categorically admitted that, there is no mentioning of date, time and place in the voluntary statements of the accused which reads under: "ಆರೋಪಿತರ ಸ್ವಇಚ್ಛಾ ಹೇಳಿಕೆಗಳನ್ನು ಯಾವ ದಿನಾಂಕದಂದು ಮತ್ತು ಯಾವ ಸಮಯದಿಂದ ಯಾವ ಸಮಯದವರೆಗೆ ಪಡೆದುಕೊಂಡಿರುತ್ತೇನೆ ಎಂದು ನಮೂದಾಗಿರುವುದಿಲ್ಲ ಎಂದರೆ ನಿಜ". Hence Under Section 27 of the Evidence Act (and corresponding provisions of the Bharatiya Sakshya Adhinyam [BSA]), a recovery is only valid if it stems from a legally sound discovery of fact. An undated, untimed confession while in custody strongly corroborates the defense's stand that signatures were taken forcefully on blank papers, therefore, the evidence of PW.11 with regard to recording of voluntary statement and alleged recovery based on the such statements cannot be acceptable one.

41. It is also relevant here to mention that, the PW.11 in her cross examination has categorically admitted that, panchas for spot seizure i.e. CW-2 and CW-3 are residing behind the policed station and they were found at the station circle at 2.00 a.m. and also admits that, so far as other three separate recovery panchanamas i.e. Vinayakanagar vehicle seizure, Bank Colony spot mahazar, and Muneshwara Layout mahazar, the IO admits that the said places were busy residential/commercial areas surrounded by multiple shops and residential houses, in spite of it, the I.O. has not made an efforts to call for the local inhabitants or persons to act as panch witnesses to

the said mahazars. I.O. has also admitted during the gold ornament recovery on 4.3.2024, the shop owner and employees were present at that time, but their statements were not recorded, and they were not made panchas to the said recovery panchanama. Which itself creates serious doubt that the I.O. intentionally has not secured the independent local witnesses as panchas to the panchanamas, despite no impediments, which creates serious doubt as to whether recoveries have been made at the spot by conducting the recovery mahazars as stated by the PW.11.

42. The PW.11 admits that when she arrived at the dacoity planning spot at about 2.10 a.m., the said place was completely dark and no any source of light, but her statement contradicts the statements of the PW.1 and 7 as they claims that, there is visibility through distant streetlights and makes it completely impossible for patrolling officers to have clearly observed weapons or identified fleeing suspects from a distance as stated by them. PW.11 further admits she had obtained the vehicle registration documents showing the scooter belonged to Accused No. 1's father, but deliberately has not produced the same before the court, in such circumstances a serious doubt arises regarding seizure of the two wheeler at the instance of the accused no.1.

43. PW.7 in his cross examination admitted that, chits on the MO.1 to 5 were not affixed on the spot during the raid and also admitted that, he had no information or knowledge regarding the mandatory procedure to pack

weapons in cloth and seal them with wax at the place of recovery, hence unsealed weapons creates a fatal to the case of the prosecution. He also admits that, in his statements he never stated that, himself and CW.12 had to chase and surround the accused instead of it, they stated that, they had already caught the accused before arrival of the PW.11, but the said evidence of PW.7 is contrary to the evidence of PW.15.

44. Hence, the evidence of PW.1,7 and 11 though they have stated that, on 29.2.2024 at about 1.00 a.m. in the morning the accused no. 1 to 3 along with other accused persons assembled at the spot by holding deadly weapons and were making preparation to commit dacoity in D.Palya road leading to Gotakanapura village, but to corroborate their versions, independent panch witnesses have not supported to prove the contents of Ex.P-1-complaint and Ex.P-2, 5, 7, 11, 13 i.e. panchanamas, their oral evidence is not reliable.

45. In the absence of corroboration of independent private witnesses, the evidence of police officials i.e. PW-1, 7 and 11, remains for consideration of the court. The evidence of PW- 7 and 11 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.

46. 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. 1 to 3 is also not enough to record conviction.

47. 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 to 3 from considerable distance. Complainant has not summoned local public witness to act as panchayathdars. Signature of the accused no.1 to 3 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.

48. 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, pleased to observe that, it was doubtful that accused would be speaking so loud about dacoity plan that the police personnel standing out side 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**.

49. 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.

50. It is also relevant here to mention that the Hon'ble High court of Karnataka in the judgment passed in **Cri. 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.

51. 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.

52. 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.

53. 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 to 3 along with other accused persons were present on 29.2.2024 at about 1.00 a.m. CW-1 and her police squad were on petrolling and came near D.Palya road leading towards Gotakanapura village by the side of the said road, they saw the accused no.1 to 3 assembled together, 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 PW.11 has recovered the M.Os.1 to 5 from the accused no.1 to 3 by drawing Ex.P-2 raid panchanama. Evidence of PW-1, 7 and 11 is not sufficient to connect the guilt of accused as same 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 are entitle for claiming the said benefit of doubt in their favour. Accordingly, by

extending benefit of doubt in favour of the accused No.1 to 3, this court is of the considered opinion that, prosecution has utterly fails to prove its case as against the accused No.1 to 3 as alleged in the charge sheet. Hence, point No.1 and 2 are answered in the **NEGATIVE**.

54. **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 to 3 are acquitted for the offences punishable under Section 399 and 402 of IPC.

Bail bond and sureties bond executed earlier by the accused No.1 to 3 stands cancelled and bail bond s and surety bonds executed by A-1 to 3 as required under Section 437A of Cr.P.C continued till expiry of the appeal period or six months which ever is later.

The properties seized in this case MO.1 to 5 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 31st 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 : Smt.Shubambika.R.
P.W-2 : Srikanth
P.W-3 : Ankith
P.W-4 : Raghavendra
P.W-5 : Anantharaju
P.W-6 : Chandranna
P.W-7 : Sriramaiah
P.W-8 : Anilkumar
P.W-9 : Sapthagiri
P.W-10 : Nagaraja
P.W-11 : Bharathi.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE ACCUSED:

: NIL

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PROSECUTION:

Ex.P.1 : Complaint
Ex.P.1(a) : Signature of PW.1

Ex.P.2	:	Spot mahazar
Ex.P.2(a),2(b), 2(c)	:	Signatures of PW.3,2,11
Ex.P.1(h)	:	Signature of PW.11
Ex.P.3, 4	:	Statements of PW. 3 and 2
Ex.P.5	:	Seizure mahazar
Ex.P.5(a)	:	Signature of PW.4
Ex.P.6	:	Statement of PW.4
Ex.P.7	:	Seizure mahazar
Ex.P.7(a), (b)	:	Signature of PW.5 & 6
Ex.P.8 to 10	:	Statements of PW.5, 6 & 8
Ex.P.11	:	Spot mahazar
Ex.P.12	:	Signature of PW.9
Ex.P.13	:	Spot mahazar
Ex.P.14	:	Signature of PW.10
Ex.P-15	:	FIR
Ex.P-15(1), 5(c)	:	Signature of PW.11
Ex.P-16	:	Portion of statement of accused no.1
Ex.P-16(a), 16(b)	:	Signatures of accused no.1 and PW.11
Ex.P-17	:	Voluntary statement of A-2
Ex.P-17(b), (c), 11(c), 7(c), 18(a)	:	Signatures of PW.11
Ex.P-18	:	Signature of accused no.3.

LIST OF DOCUMENTS MARKED ON BEHALF OF THE ACCUSED

Ex.D.1	:	Portion of statement of PW.7
Ex.D-2	:	Portion of statement of Shivashekar.

LIST OF MATERIAL OBJECTS MARKED ON BEHALF OF PROSECUTION:

MO.1 : One iron rod
MO.2 : One iron chopper
MO.3 : One knife
MO.4 : One iron rod
MO.5 : One club.

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