

KADW400001102016



**IN THE COURT OF CIVIL JUDGE & JMFC,
KUNDAGOL**

PRESENT

Smt. Gayatri.

B.Com.,LL.M.(IPR)

Civil Judge & JMFC, Kundagol.

Dated this the 02nd day of May, 2026

C.C. No.51/2016

Complainant : The State of Karnataka
Represented by
Gudageri Police Station,
Gudageri.

[By: Assistant Public Prosecutor]

-V/s-

Accused : 1. Sri. A.R. Kulkarni
Age: 58 years, Occ: AEE,
R/o. House No.33, Ashok vana,
Gokul road,
Opp. Vigneshwar school, Hubballi.

2. Smt. Mamatajabegum
W/o. Gudusab Shetasanadi
Age: 68 years, Occ: Household,
R/o. Hirebudihal, Tq: Kundagol.

3. Mehaboobsab Allisab Nadaf
Age: 64 years, Occ: Secretary,
R/o. C/o. Kudala building,
Savanur road, Shiggaon.

4. Nagesh Shettnavar
Age: 35 years, Occ: PDO,
R/o. Hiregunjal Gram Panchayat.
5. Veerannagouda
Mallanagouda Tirakanagoudar
Age: 54 years, Occ: AEE,
R/o. No.34, Shirur Park 2nd stage,
Vidyanagar, Hubballi.
6. Ashok Veerappa Shirol
Age: 40 years, Occ: Contractor,
R/o. No.102, Pragati colony,
Vidyanagar, Hubballi.
7. Shankrappa
S/o. Malleshappa Sangannavar
(Dead)
8. Dolleshwarappa
Basavanneppa Bhadrapur
Age: 41 years, Occ: Watchman,
R/o. Ingalagi, Tq: Kundagol.
9. Shivanagouda
Gurusiddagouda Bannur
Age: 38 years,
Occ: Gram Panchayat Member,
R/o. Hirebudihal, Tq: Kundagol.
10. Gurusiddagouda
Shivanagouda Bannur
Age: 65 years, Occ: Agriculture,
R/o. Hirebudihal, Tq: Kundagol.
11. Savantravva
W/o. Gurusiddagouda Bannur
Age: 60 years, Occ: Household,
R/o. Hirebudihal, Tq: Kundagol.

12. Hanamantagouda
Shivanagouda Bannur
Age: 62 years, Occ: Agriculture,
R/o. Hirebudihal, Tq: Kundagol.
13. Veeranagouda
Hanamantagouda Bannur
Age: 40 years, Occ: Agriculture,
R/o. Hirebudihal, Tq: Kundagol.
14. Bharamappa
Hanamantappa Somannavar
Age: 58 years, Occ: Agriculture,
R/o. Hirebudihal, Tq: Kundagol.
15. Smt. Neelavva
W/o. Basavanneppa Bhadrapur
Age: 63 years, Occ: Household,
R/o. Ingalagi, Tq: Kundagol.

[A1, 4 to 6 and 9 to 14 By: Sri. M.B.B., Advocate]
[A2 and 15 by Sri. C.M.K., Advocate]
[A3 By Sri. A.R.K., Advocate]
[A8 By Sri. M.G.P., Advocate]

Date of occurrence of offence : During the year 2010-2011

Date of report of offence : 19.05.2012

Name of the first informant : Dr. A.K. Chandrashekhar

Date of commencement of recording evidence : 19.07.2024

Date of closing of evidence : 15.04.2026

Offences complained of : U/Sec.403, 408, 409, 420, 465, 468, 471 r/w Section 149 of IPC.

Opinion of the Judge

**Accused No.1 to 6 and
: 8 to 15 found not
Guilty**

Sd/-
(Smt. Gayatri)
Civil Judge & JMFC.,
Kundagol.

JUDGMENT

The Police Inspector, Kundagol Police Station has submitted Charge Sheet against Accused No.1 to 15 for offenses alleged U/Sec.403, 408, 409, 420, 465, 468, 471 r/w Section 149 of IPC.

2. The brief averments of Prosecution case is as under:

The prosecution has alleged that, during the year 2010-11 the Accused No.1 to 15 within the limits of Gudageri Police Station which falls under the jurisdiction of this Court the Accused No.1 A.R. Kulkarni, AO, Ingalagi Gram Panchayat, Accused No.2 Mahaboobsab Alisab Nadaf Secretary of said Gram Panchayat, Accused No.3 Mamataja Begum President of said Gram Panchayat, Accused No.4 Nagesh Shettnavar PDO, Ingalagi Gram Panchayat, Accused No.5 Shankrappa Malleshappa Sangannavar he was the person maintaining and preparing the attendance list of

the laborers in the project dated 01.12.1999. Accused No.6 Dolleshwarappa Basavanneppa Bhadrapur was preparing the attendance list of the laborers under MGNREA Project, Accused No.7 Veeranagouda Mallanagouda Tirakanagouda Senior Engineer in the Zilla Panchayat, Engineering Sub-Division, Kundagol. Accused No.8 Ashok V Shirol bogus contractor, Accused No.9 Shivanagouda Gurusiddagouda Bannur member of Gram Panchayat, Accused No.10 Gurusiddagouda Shivanagouda Bannur, Accused No.11 Savantravva W/o. Gurusiddagouda Bannur, Accused No.12 Hanamantagouda Shivanagouda Bannur, Accused No.13 Veeranagouda Hanamantagouda Bannur, Accused No.14 Bharamappa Hanamantappa Somannavar and Accused No.15 Neelavva W/o. Basavanneppa Bhadrapur, being served during the respective tenures as mentioned in the complaint being public servants have misappropriated the funds sanctioned to implement the works of constructing agricultural pits, laying of beds in lands, improving roads in the villages falling under the National Rural Employment Guarantee Scheme, 2005-06 dated 07.09.2005 (Hereinafter will be referred as MGNREGA Scheme). The plans were made for the construction of agricultural ponds, paddy feeds, roads leading to the fields and plating saplings in the villages. Before

implementation, the President, Members and Secretary of the Gram Panchayat convene a preliminary gram sabha to discuss the plans given by the villagers and decide on them. After passing the plans in the general meeting, an action plan is preferred and sent to the Taluka Panchayat Officers for approval. After Taluka Panchayat Officers sent the action plan to the Chief Executive Officer of Zilla Panchayat and after giving sanction the Taluka Panchayat Officers will have to inform to start the work under MGNREGA Scheme. As per the action plan the Senior Engineer will have to prepare the estimate sheet and submit them to Gram Panchayat. The Gram Panchayat Secretary will give technical sanction to the said estimate sheet to the Taluka. After receiving the approval from the Panchayat Officers, The Gram Panchayat President and Secretary. It is rule to provide 100 days work to each family in a financial year and to pay Rs.100/- as wages to each person for the life security of the workers who have got the job card after giving administrative sanction and implementing the work. The work in project should not be done through JCT (Machines) and should not be done by contractors as per the instructions of the Senior Engineer. The workers should come and work. After the work completed the Senior Engineer should measure the work and issue a certificate stating that, it

is correct, then the Panchayat Secretary should pay the wages through Savings Accounts of the unskilled laborers in the banks. The Senior Engineer should inspect the site and ensure that the material has been supplied issue a certificate and then pay the bill through cheque. The accounts are to be maintained correctly and the cash registry is to be made with correct entries. The main duties and responsibilities of the Secretary/PDO and Senior Engineer are to obtain the signature of person to whom the cheque was given on the counter file of the cheque. The members of the Gram Panchayat are peoples representatives who monitored the works carried out under the scheme and cheque that the grant money has been properly spent. Accordingly, the main duty of the citizens (Accused No.10 to 14) is also to cheque the expenditure of the grant money sanctioned by the Government and the work so that there is no misappropriation. Accordingly, as mentioned above in order to dishonestly obtain the grant money sanctioned by the Government for the implementation of road construction and road improvement works for their own benefit, all of them conspired to enter the names of more laborers in the attendance list in the laborers and forged signatures with the intention of defrauding and betraying the trust of the Government and the laborers. All of them having

previously obtained the passbooks of the Savings Accounts and the savings accounts numbers from the laborers knowingly and have thereby violated their duties and responsibilities as per the order in the schedule issued by the Government in the project and did not deposit the grant money in the bank in to the Savings Accounts of all the laborers. They have sent fake letters with fake instructions to deposit the money in the people savings accounts. After they receiving the money from their savings accounts they took the money back from them and withheld the wages of some laborers, even though they did not go to work they mentioned the names and wages in their names and refused to give it to them by using same for their own purpose. The said officials discharging their duties in respect of public welfare such being the post held by Accused No.1 to 15 by misusing their powers have misused the funds. It is also alleged by the prosecution that, the officials have misappropriated the funds without paying the funds to the laborers who in turn were eligible to claim it. It is the specific allegation of the prosecution that, the accused No.1 to 15 have misappropriate the funds under MGNREGA Scheme. There was a complaint lodged against Accused No.1 to 15 after obtaining sanction by the higher authorities. The Complainant Dr. A.K. Chandrashekhar, has lodged

complaint against Accused No.1 to 5 for offences alleged under Section 403, 408, 409, 420, 465, 468, 471 r/w Section 149 of IPC. The Investigating Officer after conducting a detailed investigation finding prima-facie grounds has submitted Charge Sheet against the Accused No.1 to 5 for offenses punishable U/Sec.403, 408, 409, 420, 465, 468, 471 R/w Sec.149 of IPC.

3. After filing of the Charge Sheet, Court has took cognizance for the above said offenses and issued summons to Accused No.1 to 15. Accused No.1, 4 to 6, 9 to 14 appeared before Court through counsel along with a copy of Crl. Misc. No.321/2016 in respect of Accused No.1 and 5, Crl. Misc. No.331/2016 in respect of Accused No.4, Crl. Misc. No.322/2016 respect of Accused No.9 to 14, Crl. Misc. No.332/2016 in respect of Accused No.6. Accused No.2 appeared through counsel along with copy of Crl. Misc. No.364/2016 and as per the order passed in Crl. Misc. No.364/2016 Accused No.2, 7, 8 and 15 were granted anticipatory bail. Accused No.3 appeared through counsel along with Crl. Misc. No.395/2016.

4. Prosecution materials as required U/Sec.207 of Cr.P.C. were furnished to Accused No.1 to 15. Learned counsel for Accused No.7 submitted as to his death. NBW was issued to Accused No.7. Accused No.7 was reported dead. The case against Accused No.7 abated.

5. Charge was framed and read over to the Accused No.1 to 6 and 8 to 15 in Kannada language, they pleaded not guilty and claimed to be tried.

6. The prosecution has cited 43 witnesses and examined the witnesses cited in the list as P.W-1 to 37. The C.W-10, 18, 31, 38 were reported dead. C.W-41 was dropped. Produced 70 documents got them marked as Ex.P1 to 70 and 70(a).

7. Statement of Accused No.1 to 6 and 8 to 15 under section 313 of Cr.P.C. was framed and read over to Accused, they denied it and submitted no defense to lead.

8. Learned APP submitted prosecution side arguments may be taken as heard. Heard arguments of learned counsel for Accused No.1 to 6 and 8 to 15.

9. The following points arises for the consider of this Court:

POINTS	
1	Whether the prosecution beyond all reasonable doubt proves that, on 07.09.2005 within the jurisdiction of Ingalagi Gram Panchayat in prosecution of their common object the Accused No. 1 to 6 and 8 to 15 dishonestly misappropriated funds belonging to the State and have thereby committed an offence punishable under Section 403 r/w Section 149 of IPC?

2	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, Accused No. 1 to 6 and 8 to 15 being Chairman, Secretary / PDO, Senior Engineer, Supervisor, Contractors and clerk being in such a capacity entrusted with public funds have committed criminal breach of trust with respect to said funds in prosecution of their common object and thereby have committed an offence under Section 408 r/w Section 149 of IPC?
3	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, Accused No. 1 to 6 and 8 to 15 in prosecution of their common object were entrusted with public funds in their capacity as a public servant and the Accused persons committed criminal breach of trust in respect of public funds so entrusted and thereby have committed an offence punishable under Section 409 r/w Section 149 of IPC?
4	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, Accused No. 1 to 6 and 8 to 15 in prosecution of their common object by dishonestly inducing the workers of payment of which they were entitled by getting the signatures and thumb impressions of beneficiaries without paying them their wages have thereby committed an offence punishable under Section 420 r/w Section 149 of IPC
5	Whether the prosecution further beyond all reasonable doubt proves that, on the said

	date, time and place, Accused No. 1 to 6 and 8 to 15 in prosecution of their common object by forging the documents i.e., cheques, laborers list, accounts books with an intention to cause damage and with an intention to commit fraud have thereby committed an offence punishable under Section 465 r/w Section 149 of IPC?
6	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, the Accused No.1 to 6 and 8 to 15 in prosecution of their common object by forging the documents intending that those shall be used for the purpose of cheating and using the funds for their self have thereby committed an offence punishable under Section 468 r/w Section 149 of IPC?
7	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, Accused No.1 to 6 and 8 to 15 in prosecution of their common object fraudulently used as genuine certain documents knowingly and at the time when used it to be a forged document and thereby have committed an offence punishable under Section 471 r/w Section 149 of IPC?
8	What order?

10. This Court's finding on the above mentioned points is as follows:

Point No.1 to 7: In the **Negative**,
Point No.8 : As per final order,
for the following:

REASONS

11. Points No.1 to 7:- For the facts and circumstance of the case are concern these points are interlinked and to avoid the repetition of facts these points are taken up together for common discussion.

12. The Prosecution in order to discharge burden casted upon it has examined the Complainant C.W-1, Executive Officer, Taluka Panchayat, Kundagol the acting Deputy Director, Veterinary Medical Department as P.W-35. The P.W-35 in his chief examination has deposed about the fact of he discharging his duties as in charge EO during the period from 2007 to 2013. He has deposed about the fact of he lodging complaint against Accused No.1 to 15 as per the instructions received by him from his higher officials. Through P.W-35 the documents Ex.P70 and 70(a) the complaint and his signature were identified. He has also identified the report submitted by inquiry officer which was already marked as Ex.P2.

13. P.W-35 was cross-examined by learned counsel for Accused No.1 to 6 and 8 to 15 in detail. This witness has deposed in chief examination and cross examination by relying upon the documents those were bought by him. During the course of cross-examination he has deposed that, at the time of complaint the entire work assigned to the concerned Panchayat for construction of roads under MGNREGA was completed. Though P.W-35 has lodged

complaint. He was unable to depose about the fact whether the alleged roads were constructed by using machinery. P.W-35 was unable to identify the accused persons present before the Court. P.W-35 has admitted the suggestion that, there was a provision for getting done the work up to 40% by using machineries and up to 60% by man power. There is no specific evidence deposed by P.W-35 as to misappropriation of funds by Accused No.1 to 6 and 8 to 15 by misusing their power.

14. C.W-2 and 3 pancha witnesses examined as P.W-2 and 6 have turned hostile to the prosecution case. Learned APP cross-examined P.W-2 and 6 but nothing helpful to prosecution case has been elicited from the mouth of these witnesses.

15. CW-4, inquiry officer, who submitted report as to alleged misappropriation of funds by Accused persons was examined as P.W-1. P.W-1 has deposed in his chief as to the manner and the period during which the Accused persons have misappropriated the funds allocated for construction of road. P.W-1 was cross-examined by learned counsels for Accused persons. Learned counsel for Accused persons have cross-examined P.W-1 in a manner to shift the burden upon one and the other Accused. P.W-1 has admitted the suggestion that, the Chairman will sign the cheque

believing PDO as true. According to Inquiry Officer the Chairman has signed the signature has signed on cheques but on record on perusal of cheques available on the file of this Court, there are thumb impressions. P.W-1 has also deposed that, at the time of he conducting inquiry the work was completed and the work so completed was as per the estimation. P.W-1 has deposed in chief examination as to use of machineries for construction of road. But he is not eye witness. He has deposed that, he on receipt of a complaint came to know about the fact of use of machineries for construction of said road. But he has not disclosed the name of complainant as per whose complaint he has come forward to conduct inquiry.

16. P.W-1 has deposed that, only Secretary has signed the cheques. But on record few cheques are signed cheques and few are the cheques with thumb impression.

17. C.W-5, ombudsman Sl. No.2 was examined as P.W-3. P.W-3 has deposed his chief examination as to misappropriation of funds by Accused persons. P.W-3 was cross-examined by learned counsels for Accused persons. P.W-3 has deposed that, he received instruction from his higher authorities which was 15 days before he conducting investigation. The copy of instruction received by him was not handed over to

police. He has denied the suggestion that, in spite of no instructions has conducted investigation as false. This witness is not aware as to how many years ago the work on the said roads was done under the MGNREGA Scheme. He has further stated that, the said roads were constructed under MGNREGA Scheme. He is not aware about the designation of Accused persons. Ex.P3 to 11 were identified by him. Those photographs were shot at the time of investigation. He has denied the suggestion that, those photographs are created by them to support the prosecution case as false.

18. C.W-6 as P.W-4 and C.W-7 as P.W-5, complainants who submitted complaint to Zilla Panchayat about the fact of misuse of funds under MGNREGA Scheme during the year 2010-11 was examined as P.W-4 and 5 have turned hostile to prosecution case. P.W-4 and 5 were cross-examined by learned APP with the lieu of Court. But nothing helpful to prosecution case was elicited from the mouth of these witnesses.

19. C.W-8 as P.W-7, C.W-12 as P.W-9, C.W-13 as P.W-10, C.W-14 as P.W-14, C.W-15 as P.W-12, C.W-16 as P.W-15, C.W-17 as P.W-16, C.W-19 as P.W-18, C.W-20 as P.W-17, C.W-21 as P.W-19, C.W-22 as P.W-20, C.W-23 as P.W-21, C.W-24 as P.W-13, C.W-25 as P.W-23, C.W-26 as P.W-22, C.W-27 as P.W-11, C.W-28 as

P.W-24, C.W-29 as P.W-25, C.W-30 as P.W-26, C.W-32 as P.W-28, C.W-33 as P.W-29, C.W-34 as P.W-30. The alleged laborers alleged to have discharged their works as laborers in construction of alleged roads have turned hostile to the prosecution case. Learned APP with the lieu of Court has cross-examined these witnesses. But nothing helpful to prosecution case was elicited from the mouth of these witnesses.

20. C.W-35 examined as P.W-27 bill collector Gram Panchayat has also turned hostile to the prosecution case. Learned APP with the lieu of the Court has cross-examined this witness. But nothing helpful to prosecution case was elicited from the mouth of this witness.

21. C.W-36 examined as P.W-31 Secretary, Gram Panchayat has also turned hostile to the prosecution case. Learned APP with the lieu of the Court has cross-examined this witness. But nothing helpful to prosecution case was elicited from the mouth of this witness.

22. C.W-37 examined as P.W-33 PDO, Gram Panchayat has deposed his evidence by supporting prosecution case. P.W-33 has identified the documents and the list of laborers along with the laborers register, account register, cheques, cash book. Through this

witness Ex.P39 to 69 were got marked. The documents those marked through this witness also includes the list as to payment of wages to the laborers. Learned counsels for Accused persons in detail have cross-examined P.W-33. Learned counsel for Accused persons have disputed the very genuinity of the documents got marked through this witness. It is admitted by P.W-33 that, Ex.P39 was not issued by Ingalagi Gram Panchayat. He has also admitted the suggestion that, Ex.P39 are xerox documents. P.W-33 has also admitted that, Ex.P44 was not written on Gram Panchayat letter head as true. He has admitted suggestion that, on Ex.P40 at page No.2 the signature and seal of Secretary not available as true. He has also admitted the suggestion that, in the same document at page No.3 and 4 there is no mention about department and it is also not duly sealed as true. He is also not aware as to who was the chairman, Secretary, PDO and clerk of the Ingalagi Gram Panchayat at the time of occurring of alleged offence. On careful perusal of cross-examination of P.W-33 by comparing it with the documents Ex.P40 to 69, the documents are incomplete. Though it is alleged that, the documents were issued by the concerned Panchayat but they are not duly certified by the issuing authority. The documents are incomplete. It is the burden casted upon the prosecution to prove the

guilt of Accused persons by submitting relevant documents before this Court. The nature of allegations against Accused persons is of misappropriation of public funds. The offence of such nature is completely in respect of documents.

23. C.W-40 ASI, Gudageri Police Station was examined as P.W-34. P.W-34 has deposed about the fact of C.W-43 through telecommunication as to C.W-37 furnishing certain documents to them. He has deposed that, C.W-37 has furnished serial No.1 to 36 documents and these documents through P.W-33 were marked as Ex.P39 to 62. These documents were received by P.W-34 and later handed over to C.W-43. He has deposed about the fact of he recording the statement of C.W-37. Learned counsel for Accused persons has cross-examined P.W-34. He has admitted the fact that, he is not investigating officer and he has only received the documents.

24. C.W-43, Investigating Officer, has examined as P.W-36. P.W-36 has deposed about the fact of he discharging his duties as Police Inspector in Kundagol Police Station from 03.10.2013 to 12.08.2016. This witness has deposed about the fact of he receiving the case file from C.W-42 on 03.10.2013. He has conducted further investigation. On 23.12.2014 C.W-40 has produced certain documents. He after receiving them

has kept in case file. He has deposed about he on 24.12.2014 recording the statement of C.W-18, 21, 22, 27, 29, 30, 32 and 33. On 25.12.2014 recorded the statement of C.W-12 to 17 and 19. On 26.12.2014 recorded the statement of C.W-10, 24, 25, 28, 31 and 34. On 08.12.2014 recorded the statement of C.W-36 and 37. On 27.12.2014 recorded the statement of C.W-4, 6 to 9. On 28.12.2014 recorded the statement of C.W11. On 31.12.2014 recorded the statement of C.W-23 and 26. On 08.01.2015 recorded the statement of C.W-20 and 35. On 14.01.2015 recorded the statement of C.W-1 further statement and statement of C.W-5. On 20.01.2015 recorded the further statement of C.W-37. On 02.03.2015 recorded the further statement of C.W-37. From 01.04.2009 to 31.01.2011 savings accounts statements and SB accounts pertaining to account No.2019503 from Karnataka Vikasa Grameena Bank were collected by him. Those documents are already marked as Ex.P65 through P.W-33. He has deposed about the fact of certified copy of statement of Accounts provided by Branch Manager, SBI, Kundagol on 08.01.2015. He has also deposed about he recording the statement of C.W-36 and 37. He has also deposed about the fact of he recording the further statements of C.W-1, 4 and 5. He has also deposed about the fact of receipt of cash registry as to disbursement of salaries

to the officials of Ingalagi Gram Panchayat. He has deposed about the fact that, he after coming to a conclusion that, prima-facie Accused persons are involved in commission of alleged offence has submitted charge sheet against them.

25. Learned counsels for Accused persons have cross-examined P.W-36 in detail. But the cross-examination of P.W-36 is by disputing the fact that, in spite of he not recording the statement of witnesses in order to support the prosecution case is deposing false which is denied by him as false. P.W-36 is not the competent witness to depose about the genuinity of the documents those received by him during investigation. The documents those collected by him during investigation were received by him from the officials of Ingalagi Gram Panchayat. P.W-36 is Investigating Officer who has conducted investigation as per the complaint received by him.

26. C.W-42 Police Inspector, Kundagol, the investigating officer was examined as P.W-37. This witness has deposed about the fact of he discharging his duties as Police Inspector from 27.06.2011 to 03.10.2013 in Kundagol police station. According to him the crime was registered by C.W-41. The spot panchanama was also conducted by C.W-41 on 22.05.2012. He has deposed about he handing over of

case file by C.W-41 to him on the ground of his transfer. This witness later due to his promotion transfer on 03.10.2013 has handed over the case file to C.W-43.

27. Learned counsels for Accused persons have cross-examined P.W-37 in detail. P.W-37 has deposed that, C.W-41 has discharged his duties in Kundagol Police Station during the year 2012. After the receipt of case file he has not visited spot and has also not verified the statement of complainant. Though he has not visited alleged spot but has deposed about he going through Panchanama. He has admitted the suggestion that, he has not done any investigation work in respect of present complaint as true. He has denied the common suggestion that in spite of Accused persons not misappropriating any funds he in order to support the prosecution case is deposing false as false.

28. In order to secure conviction of criminals for misappropriation of funds, the prosecution must establish specific legal ingredients beyond a reasonable doubt. Unlike theft, where the initial taking is dishonest, misappropriation often begins with innocent position that later turns criminal. Dishonest conversion results in misappropriation and term misappropriation is nothing but use of a thing or property for their own

which the person knows that, it is not his own. In order to establish the offence of misappropriation the prosecution has to firstly prove the dishonest intention of the accused persons i.e., Mens Rea. This is the most critical requirement. It is upon the prosecution to put forth that the Accused persons were having an intention to misappropriate the funds with ill-intention. It is also duty of the prosecution to prove the fact that, the Accused persons were having dishonest intention from the very beginning. There requires a clear proof that the Accused persons are the only persons who handled the property/funds. It is also for the prosecution to prove that the Accused persons refused to return the funds or have denied to pay it to the beneficiaries without any reasonable cause. In cases of such a nature the mere retention of funds is not enough, there must be an overt act showing the accused persons intention to deprive the rightful claimer of their wages permanently or temporarily for their person gain. There must be a clear proof that the Accused persons were the only persons handling the funds. This Court makes it clear that, the laborers who have alleged before the complainant and investigating officer of they discharging their duties as laborers under the Scheme have not lodged a single complaint as to not receiving of wages before the competent

authority. The alleged laborers who were also the beneficiaries under the said scheme have entered witness box but have not spoken a single oral evidence in support of prosecution case.

29. On careful perusal of entire oral and documentary evidence available on the file of this Court. As per Charge sheet submitted by Investigating Officer, it is admitted fact that the laborers who are alleged to have discharged their labor work have not lodged a single complaint against Accused persons about the fact of they misappropriating the funds. It is also true that, nowhere the laborers have stated about the fact of they not receiving the wages for their labor work. The laborers are the competent persons who can lodge a complaint about the fact of misappropriation of funds. The eye witnesses have turned hostile to the prosecution case. The laborers have not supported to the prosecution case. The PDO, who has furnished the documents to the investigating officer has admitted the fact that, those documents are incomplete along with that he has also admitted the fact that, the list of the laborers is incomplete. It is the specific case of the prosecution case that, the Accused persons by misusing their capacity have drawn excess amount by showing excess laborers and thereby misappropriated the funds by using the public funds for their personal

use. In respect of such allegations the prosecution has to prove the allegation with specific documents and with specific oral evidence. However, on record there is no proper oral and documentary evidence to hold that, the Accused persons by using the public funds for their own have misappropriated those funds.

30. It is the say of the State that, the offences Under Section 408 and 409 are the offences which are grievous in nature and the Accused persons are to be convicted for the said offences by this Court only by going through the documents those available on the file of this Court without going through the evidence orally deposed by the witness. However, this Court further makes it very much clear that, this Court has reached to a conclusion that, the Accused persons have not committed alleged offences, after this Court going through the documents available on the file of this Court. It is failure on the part of Prosecution to establish the guilt of the Accused persons. However, it is also clear from the oral and documentary evidence available on record the Accused persons have not committed alleged offences being they holding a respectable post in the concerned Gram Panchayat. There is no iota of evidence available to hold the Accused persons guilty of alleged offences.

31. In view of above discussion it is clear that, there is no evidence available on record to hold that the Accused persons have committed the offences alleged against them by the Prosecution. Hence, without further discussion this Court proceeds to answer these Points accordingly.

32. Point No.8:- As per the above discussion on Points No.1 to 7 are concerned, this Court holding Accused persons have not committed any offenses as alleged by the prosecution against them. Hence, this Court proceeds to pass the following:-

ORDER

Acting under section 248(1) of Cr.P.C. Accused No.1 to 6 and 8 to 15 are hereby Acquitted for the offenses punishable U/Sec.403, 408, 409, 420, 465, 468, 471 r/w Section 149 of IPC.

Accused No.7 reported dead. Hence, case against Accused No.7 abated.

The Bail Bond and Surety Bonds of Accused No.1 to 6 and 8 to 15 stands cancelled.

Accused No.1 to 6 and 8 to 15 are
set at liberty forth-with.

[Dictated to the Stenographer directly on computer and typed by him.
Corrected and then pronounced by me in the Open Court on this the
02nd day of May, 2026]

(Smt. Gayatri)
Civil Judge & JMFC.,
Kundagol.

ANNEXURE

1. List of witnesses examined for the Prosecution:

- P.W-1 : Ramacharya S/o.Anantacharya Puranik
P.W-2 : Ashok S/o. Parappa Khajji
P.W-3 : Jagadessh S/o. Channabasappa Desai
P.W-4 : Tammanagouda
S/o. Mallikarjunagouda Patil
P.W-5 : Mehaboobsab
S/o. Moulasab Mullanavar
P.W-6 : Shaloddin S/o.Hajaresab Papananavar
P.W-7 : Devendragouda
S/o. Neelakanthagouda Kanteppanavar
P.W-8 : Adaveppa S/o. Ningappa Subaragatti
P.W-9 : Nemanagouda Kanteppagoudra
P.W-10 : Lingaraj Koosammanavar
P.W-11 : Lakshnavva W/o. Ashok Bhajantri
P.W-12 : Rudragouda Kanteppagoudra
P.W-13 : Girijavva W/o. Nagappa Baraker
P.W-14 : Manjunath Patil
P.W-15 : Babajan Sethasanadi
P.W-16 : Veeranna Vithalapur
P.W-17 : Manjunath Savanur

- P.W-18 : Dyamanagouda Kanteppagoudra
P.W-19 : Ninganagouda Sanganagoudra
P.W-20 : Murigeppa Vithalapur
P.W-21 : Shahanazbegum Nadaf
P.W-22 : Mahammedshareef Nadaf
P.W-23 : Nagappa Baraker
P.W-24 : Chandravva Suryavanshi
P.W-25 : Mahammedhaneefsab Nadaf
P.W-26 : Mustaksab Nadaf
P.W-27 : Basappa Malligawad
P.W-28 : Vasantagouda Patil
P.W-29 : Anwarsab Nadaf
P.W-30 : Haseenabegum Nadaf
P.W-31 : Shankaragouda
S/o. Shivanagouda Hiregoudar
P.W-32 : Kamala Malagi
P.W-33 : Dharmanna A.K. S/o. Galeppa
P.W-34 : Mallikarjun S/o. Ramappa Kale
P.W-35 : Dr. Chandrashekhar
S/o. Adivappa Kondagulikar
P.W-36 : Muttappa S/o. Somalingappa Patil
P.W-37 : Gurulingappa
S/o. Gurusiddappa Maribashetti

2. List of documents exhibited for the Prosecution:

- Ex.P1- 11: Are same Exhibits in C.C. No.50/2016
and they are kept in case file of
C.C. No.50/2016
Ex.P12 : Statement of P.W-4
Ex.P13 : Statement of P.W-5
Ex.P14 : Statement of P.W-7
Ex.P15 : Statement of P.W-8
Ex.P16 : Statement of P.W-9
Ex.P17 : Statement of P.W-10

- Ex.P18 : Statement of P.W-11
- Ex.P19 : Statement of P.W-12
- Ex.P20 : Statement of P.W-13
- Ex.P21 : Statement of P.W-14
- Ex.P22 : Statement of P.W-15
- Ex.P23 : Statement of P.W-16
- Ex.P24 : Statement of P.W-17
- Ex.P25 : Statement of P.W-18
- Ex.P26 : Statement of P.W-19
- Ex.P27 : Statement of P.W-20
- Ex.P28 : Statement of P.W-21
- Ex.P29 : Statement of P.W-22
- Ex.P30 : Statement of P.W-23
- Ex.P31 : Statement of P.W-24
- Ex.P32 : Statement of P.W-25
- Ex.P33 : Statement of P.W-26
- Ex.P34 : Statement of P.W-27
- Ex.P35 : Statement of P.W-28
- Ex.P36 : Statement of P.W-29
- Ex.P37 : Statement of P.W-30
- Ex.P38 : Savings bank statement
- Ex.P39 : PDO Report
- Ex.P40-42: Laborers list
- Ex.P43-44: Authentication letter
- Ex.P45 : Laborers list
- Ex.P46 : Authentication letter as to deposit of money
- Ex.P47-53: Laborers attendance list
- Ex.P54 : Cash book
- Ex.P55 : Passbook
- Ex.P56-59: Cheque books
- Ex.P60 : Laborers attendance list
- Ex.P61 : Authentication letter as to deposit of money
- Ex.P62 : Tharav book
- Ex.P63 : Account holders bank statements
- Ex.P64 : Employees attendance book
- Ex.P65 : Bank statement
- Ex.P66 : Laborers list distribution register

- Ex.P67 : Charge list
Ex.P68 : Tharav book
Ex.P69 : Salary disbursement register
Ex.P70 : Copy of complaint
Ex.P70(a) : Signature

3. List of witnesses examined for the Accused:

-NIL-

4. List of documents exhibited for the Accused:

-NIL-

5. List of Material object marked for Prosecution:

-NIL-

Sd/-
(Smt. Gayatri)
Civil Judge & JMFC.,
Kundagol.
