

KAKP200004502017



**IN THE COURT OF THE PRINCIPAL CIVIL JUDGE
AND J.M.F.C., KUSHTAGI**

PRESENT: SRI. MAYAPPA LAGAMAPPA PUJERI.,
B.A., L.L.B.
PRL. CIVIL JUDGE AND JMFC,
KUSHTAGI.

DATED THIS THE 28th DAY OF JULY 2026

C.C.NO.246/2017

Complainant	: The Karnataka State by Kushtagi Police.
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(R/by learned A.P.P.)

V/s

Accused No.1	: Irappa
S/o.	: Balappa Talikoti
Aged about	: 44 years
Occ:	: Coolie work
R/o:	: Near new bus stand, 76 th plot, Gadag
Taluk	: Gadag,
District	: Gadag.

Accused No.2	:	Duragappa
S/o.	:	Gangappa Kunchikoravar
Aged about	:	25 years
Occ:	:	Labourer
R/o:	:	Near Bus stand, Bhajentri Oni, Yelbargua
Taluk	:	Yelaburga,
District	:	Yelaburga.

Accused No.3	:	Fakirappa
S/o.	:	Durugappa Talikoti
Aged about	:	43 years
Occ:	:	Labourer
R/o:	:	Near new bus stand, 76 th plot, Gadag
Taluk	:	Gadag,
District	:	Gadag.

(A1 R/by Sri.Sri.B.D.A., Adv.)
(A2 R/by Sri.Sri.C.P.P., Adv.)
(A3 R/by Sri.Sri.B.M.W., Adv.)

1	Date of offence	10-02-2017
2	Date of FIR	10-02-2017
3	Date of filing of charge sheet	13-03-2017
4	Name of the informant	Vishwanath,H. PSI.
5	Rank of the accused	Accused No.1 to 3
6	Name of the accused	As stated above

7	Date of Arrest	Accused No.1 to 3 are arrested on 10.02.2017
8	Date of release on Bail	Accused No.1 and 3 are released on 14.02.2017 and accused No.2 is released on 16.02.2017
9	Offence charged with	Punishable under Section 96(B) of The Karnataka of Police Act 1963 (in short KP Act) and section 192 of Indian Motor Vehicles Act 1988 (in short IMV Act).
10	Whether acquitted or convicted	Acquitted
11	Sentence imposed	----
12	Period of detention undergone during the trial for purpose section 428 of the Cr.PC.	----
13	Date of framing charge	21-02-2019
14	Date of commencement of evidence	14-07-2026
15	Date of closing evidence	23-07-2026
16	Date on which judgment reserved	25-07-2026
17	Date of the Judgment	28-07-2026
18	Date of the Sentencing Order, if any	-----

(MAYAPPA LAGAMAPPA PUJERI)

Prl. Civil Judge and J.M.F.C.,
Kushtagi.

J U D G M E N T

The SHO of the Kushtagi Police Station has filed the charge sheet against the accused No.1 to 3 for the offences punishable under Section 96(B) of The Karnataka of Police Act 1963 (in short KP Act) and section 192 of Indian Motor Vehicles Act 1988 (in short IMV Act).

2. Brief fact of the prosecution case is as follows:

That, on 10.02.2017, around 04:30 a.m., within the limits of the Kushtagi Police Station, when the CW.1 along with CW.4 to 6 were on patrolling duty near S.B.M Bank, situated near Kanakadas circle in Kushtagi town, the accused No.1 to 3 are roaming there. At that time, the CW.1 inquired them, but did not give proper reasons and address and no family members and friends were there to the accused No.1 to 3. Hence, suspecting them they were trying to commit offense roaming there, hence he took them to his custody and produced before the SHO of the Kushtagi police station and lodged first information. Based

on the complaint the police registered the case and investigated the matter. Therefore, the prosecution alleged that, the accused No.1 to 3 committed the aforesaid offences.

3. After completion of the investigation, the Investigating Officer submitted charge sheet against the accused No.1 to 3 for the aforesaid offences. When, the prima-facie case was made out, this Court took cognizance of the alleged offences and issued process to the accused No.1 to 3 by registering the case in Criminal Register No.III. The accused No.1 to 3 appeared through their learned advocate. The charge sheet and prosecution papers were also furnished to the accused No.1 to 3 as contemplated under Section 207 of Cr.PC as the accused No.1 to 3 were on bail at the crime/inquiry stage. Thereafter, the matter was set down for plea.

4. As the prosecution placed sufficient material to proceed against the accused persons, the substance of the

accusation was read over and explained to the accused persons in the language which known to them, to which the accused persons pleaded not guilty and claimed to be tried. Hence, the case was set down for prosecution evidence/ trial.

5. In order to prove the guilt of the accused persons, the prosecution got examined 04 witnesses as PW-1 to 4 and got marked 4 documents as Ex.P-1 to Ex.P-4 and also got marked 02 material objects as MO.No.1 and MO.No.2.

6. After that, this Court examined the accused persons under Section 313 of Cr.P.C. and their statements were also recorded. The accused persons denied the incriminating evidence that appeared against them and did not choose to lead any defense evidence. Hence, matter was set down for arguments.

7. This Court has heard the arguments of the learned APP for the state and the learned counsel for the

accused persons and also perused the material available on record.

8. On perusal of the material available on record, the points arise before this Court for consideration are as follows;

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that, on 10.02.2017, around 04:30 a.m., within the limits of the Kushtagi Police Station, the accused No.1 to 3 were found under suspicious circumstances between sunset and sunrise arm with dangerous instrument with intent to commit offense near S.B.M Bank, situated near Kanakadas circle in Kushtagi town and thereby the accused No.1 to 3 committed the offence punishable under Section 96(B) of The Karnataka of Police Act 1963 ?
2. Whether the prosecution proves beyond all reasonable doubt that, above said date, time and place, the accused No.1 to 3 used

the motorcycle without registration and thereby committed the offence punishable U/Sec.192 of Indian Motor Vehicles Act 1988 ?

3. What Order?

9. Findings of this Court to the above points are as under;

Point No.1	:	In the negative
Point No.2	:	In the negative
Point No.3	:	As per the final order for the following:

REASONS

10. **Point No.1 to 4:-** These points are taken up together for common discussion in order to avoid repetition of appreciation of evidence of the case.

11. As this Court has already narrated the entire story of the prosecution case in previous paragraphs, this Court would like to go through the material available on record, directly, in order to avoid the repetition of the facts and circumstances of the case.

12. Herein the case on hand, in order to prove the guilt of the accused persons, the prosecution has got examined 04 witnesses as PW-1 to 4. As per the version of the prosecution, CW-1/PW-3 is the complainant and police witness; CW-3/PW-1 is the mahazar witness; CW-4/PW-2 is the eye witness and police officer witness and CW-7/PW-4 is the investigating office witness. It is relevant to state that CW-2 is reported as dead.

13. Further, the prosecution has also got marked 04 documents as Ex.P-1 to 4, namely, Ex.P-1 is the seizure panchanama; Ex.P-2 is the spot panchanama; Ex.P-3 is the complaint and Ex.P-4 is the first information report. That apart, the prosecution has also got marked 02 material objects as MO.No.1 and 2, MO.No.1 is the iron rod and MO.No.2 is the Chilli powder.

14. Now the very important moot question arises before this court that, whether the prosecution has succeeded to prove the guilt of the accused persons beyond

all reasonable doubt that means, whether the prosecution succeeded to establish the chain of sequences without any break or whether any doubts in the case of the prosecution which creates dent in the story of the prosecution. Therefore, this court has carefully scrutinized the material available on record.

15. On perusal of material it reveals that, complainant ie., CW-1/PW-3 Vishwanath has deposed in his chief-examination in nutshell that, when he was on patrolling duty near Kanakadas circle on Gagendragad road on 10.02.2017 around 04.00 a.m the accused No.1 to 3 tried to hide themselves in front of S.B.M bank. Hence, by suspecting them he inquired them and found they had two feet rod and plastic cover and motorcycle without number plate. They were also saying their names wrongly. Hence, he produced them along with said articles to the station and lodged complaint.

16. Further, the CW.4/PW.2 by name Amaresh who is Police Head Constable has also deposed concurrently with

the evidence of PW.3 in his evidence.

17. Further, the investigating officer ie., CW.7/PW.4 by name Pundappa has deposed in his chief-examination in nutshell that, he lodged FIR in station crime No.34/2017 for the offence punishable under section 96(B) of KP Act based on the report of CW.1 on 10.02.2017 at about 06.00 a.m. Further, conducted seizure panchanama in the presence of CW.2 and 3 from 08.00 to 09.00 a.m in the station premises and also conducted spot panchanama in the presence of CW.2 and 3 from 09.30 to 10.30 a.m and recorded the statement of the CW.4 to 6 and submitted charge sheet on 11.02.2017.

18. Thus, a prima-facie view of the evidence of the police officers it appears that, the said officers deposed by the supporting the case of the prosecution in their chief examinations. However, it is very pertinent to note here that, the accused persons have categorically denied the allegation made against them by the prosecution and set

up the defense that, they have not committed any offence as alleged by the prosecution. Therefore, it is time to analyze the material or evidence placed by the prosecution on record by applying the rule of proof.

19. In this regard on careful scrutiny of the material available on record it reveals that, the mahazar witness ie., CW-3/PW-1 by name Mahamadrafi has deposed in his chief-examination itself that, he does not no that what has been written in the Ex.P-1 ie., seizure panchanama and Ex.P-2 ie., spot panchanama, though he identified his signatures on them. Further, he deposed that he signed on them as per request of the police. Further, he deposed that, no panchanama was prepared in his presence and nothing is seized in his presence and thereby he completely turned hostile to the case of prosecution and creates lot of doubt in the case of prosecution.

20. It is needless to say that, though the learned APP has made a sincere effort to cross examine him, but nothing has been elicited from the mouth of said witness in

order to support the case of the prosecution.

21. That apart, it is another important aspect to be considered here that, though the CW.1 alleged that the accused No.1 to 3 were roaming in front of S.B.M bank Kushtagi and they have not given proper explanation as such he took them in to their custody, but he has not taken any photos or produced any photos to show that they are roaming in the said place having weapon in the motorcycle without having number plate.

22. It is also relevant to state that, though the investigating officer has admitted in his cross examination that, there is a C.C camera in front of S.B.M bank, but he has not made any effort to collect the C.C. T.V footage. Further, he has not inquire the manager of the said bank to know that whether security was there at the time of alleged incident. This also creates lot of doubt in the case of prosecution.

23. It is relevant to state that, though the prosecution

has alleged that, the accused No.1 to 3 were roaming there using motorcycle without registration, but above said discussion clearly reveals that, the independent witness of the prosecution ie., CW.3/PW.1 has completely turned hostile to the case of prosecution and creates lot of doubts about the said fact.

24. Moreover, in order to accept the allegation against the accused No.1 to 3 under section 192 of IMV Act, the prosecution must establish that, accused No.1 to 3 were roaming there by using the motorcycle which has not registered in a public road in contravention with section 192 of IMV Act. But, above said discussion clearly reveals that, the prosecution has miserably failed to prove the said fact in accordance with law, as the independent witness of the prosecution has entirely turned hostile to the case of prosecution and the IO has not taken care either to examine the security guard of the bank or to collect the C.C. T.V footage of the said bank.

25. Further, the IO has not issued any notice under

section 133 of IMV Act and took the statement of the owner of the alleged motorcycle. This also remains enigmatic. Hence, this court is of the view that, no more discussion is required to hold that, the prosecution has failed to establish the guilt of the accused persons beyond the shadow of doubt.

26. Moreover, above said discussion clearly shows that lot of doubts arise in the case of prosecution. Hence, this court holds that, the prosecution has miserably failed to prove the guilt of the accused beyond all reasonable doubt and there are lot of doubts in the case of the prosecution and that benefit of doubt shall be extended to the accused persons in view of the settled principle of law.

Hence, this Court answers point No.1 and 2 in the negative.

27. **Point No.3:** In view of the above said discussion and reasons assigned supra, this Court proceeds to pass the following;

ORDER

Acting under U/Sec.255(1) of The Criminal Procedure Code, the Accused No.1 to 3 are hereby acquitted for offences punishable under Section 96(B) of The Karnataka of Police Act 1963 and section 192 of Indian Motor Vehicles Act 1988.

The bail bonds and surety bonds shall be stand canceled after expiry of 06 months, in view of section 437(A) of Criminal Procedure Code.

It is further ordered that, M.O No.1 i.e., rod shall be confiscated to the state after completion of appeal period in accordance with law.

It is further ordered that, M.O No.2 i.e., chilli powder with plastic cover shall be destroyed in accordance with law after completion of appeal period.

Further, vehicle release order passed by this court vide order dated: 06.03.2017 is made absolute after

completion of appeal period in accordance
with law.

(Dictated to the stenographer, directly on computer and typed by her, corrected by me and then pronounced in the Open Court on 28th day of July, 2026.)

(MAYAPPA LAGAMAPPA PUJERI)

Prl. Civil Judge and J.M.F.C.,
Kushtagi.

ANNEXURES

<u>List of Prosecution witnesses</u>		
Rank	Name	Nature of evidence
PW-1	Mahamadrafi	Mahazar witness
PW-2	Amaresh	Eye witness
PW-3	Vishwanath.H.PSI	Complainant witness
PW-4	Pundappa	Investigating officer witness

<u>List of Prosecution Exhibits</u>		
Exhibit No.	Description	Proved by/Attested by
Ex.P1	Seizure panchanama	PW.1
Ex.P1(a)	Signature	
Ex.P2	Spot panchanama	PW.1
Ex.P2(a)	Signature	
Ex.P3	Complaint	PW.3
Ex.P3(a and b)	Signatures	

Ex.P4	First information report	PW.4
Ex.P4(a)	Signature	

List of Prosecution Materials

Exhibit No.	Description	Proved by/Attested by
MO.No.1	Rod	PW.2
MO.No.2	Chilli powder	PW.2

List of Defense witnesses

Rank	Name	Nature of evidence
Nil	Nil	Nil

List of Prosecution Exhibits

Exhibit No.	Description	Proved by/Attested by
Nil	Nil	Nil

List of Defense Materials

Exhibit No.	Description	Proved by/Attested by
Nil	Nil	Nil

<u>List of Court witnesses</u>		
Rank	Name	Nature of evidence
Nil	Nil	Nil

<u>List of Court Exhibits</u>		
Exhibit No.	Description	Proved by/Attested by
Nil	Nil	Nil

<u>List of Court Materials</u>		
Exhibit No.	Description	Proved by/Attested by
Nil	Nil	Nil

(MAYAPPA LAGAMAPPA PUJERI)

Prl. Civil Judge and J.M.F.C.,
Kushtagi