

KAMD700000112026



**IN THE COURT OF THE
III ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MANDYA,
[SITTING AT SRIRANGAPATNA].**

Dated this the 28th day of July, 2026.

PRESENT

Smt. Jyothsna D, LLB, LLM, DFA.
III Addl. District and Sessions Judge, Mandya
[Sitting at Srirangapatna]

Crl.A./5004/2026

Appellant : B.M.Chandrakala W/o Devaraju.G
D/o Manohara B.T, Aged about 35
years, Marigudi Beedi,
Majjigepura Village, Belagola
Hobli, Srirangapatna Taluk,
Mandya District.

By Sri KMR, Advocate.

V/s

Respondent : State of Karnataka,
By K.R.Sagara Police Station.

By the Public Prosecutor.

JUDGMENT

The accused No.2 in C.C.No.259 of 2023 has preferred the present appeal aggrieved by the Judgment of the Principal Senior Civil Judge and JMFC, Pandavapura, dated 20.12.2025, seeking to set-aside the Judgment of the

Trial Court and order for release of Tipper Lorry bearing registration No. KA-11/B-5779 in property list No.59 of 2023.

2. The appellant / accused No.2 in C.C.No.259 of 2023 is convicted for the offences punishable under Section 279, 337, 338, 304-A IPC r/w Section 187, 146 and 196 IMV Act.

3. The accused No.2 is released from the case as the offence under Section 279, 337, 338, 304-A IPC is not proved against her. The Trial Court passed the Judgment against accused No.3 as the offence punishable under Section 187, 146 and 196 IMV Act is proved. While passing the Judgment, the material object listed in MO list No.59 of 2023 i.e., Tipper Lorry bearing registration No. KA-11/B-5779 has been confiscated to the State after disposal of the appeal.

4. The grounds of appeal are as under;

- a) The impugned Judgment of the Trial Court with regard to confiscation of vehicle as has been mentioned herein above is against law, facts and

circumstances of the case and rules of justice.

- b) Though the witnesses have not given evidence in respect of IMV Act and though the offence against accused No.2 is not proved, erroneously, the Trial Court passed the Judgment while confiscating the material object to the State though learned Public Prosecutor failed to prove the same beyond reasonable doubt.
- c) The said Tipper Lorry is used for agriculture and non agriculture purpose and it was given for rent and it is used for the livelihood of the appellant. If said vehicle is confiscated to the State, the same leads to irreparable loss and affects on her livelihood. Hence, prayed to allow the appeal and prayed to release the said vehicle by setting aside the Trial Court Judgment.

5. In response to service of notice, learned Public Prosecutor appeared on behalf of the respondent. The Trial Court Records secured.

6. Heard both sided. Perused the materials available on record. Accordingly, the following points do arise for consideration of this Court;

1. Whether accused No.2/Appellant has made out grounds for interference of this Court by proving the judgment of Trial Court is contrary to the materials placed on record?
2. What order?

7. The findings of this Court for the above points for consideration are as under;

Point No.1 : In the affirmative.

Point No.2 : As per final order for the following;

REASONS

8. **Point No.1:** Admittedly, this appeal is filed by accused No.2 who is the RC owner of Tipper Lorry bearing registration No. KA-11/B-5779 wherein the appellant is convicted for the offence punishable under Section 146 r/w Section 196 IMV Act.

9. On perusal of the Trial Court Judgment, the ownership of Accused No 2 over above mentioned Tipper

Lorry is undisputed fact, and the photographs of said vehicle is marked as Ex.P-4 to 10.

10. On perusal of prayer of the appeal, it is prayed by the appellant to set-aside the Judgment of the Trial Court and prayed to release the vehicle by imposing conditions. No where in the prayer it is prayed to acquit accused No.2 for the offence punishable under Section 146 r/w Section 196 IMV Act wherein she is imposed with penalty of Rs.2,000/- or to undergo simple imprisonment for a period of three months. It shows that the appellant / accused No.2 was involved in commission of alleged offences as she has not sought for setting aside the order of conviction and prayed only to release the vehicle in her favour.

11. It is relevant to note here that when accused No.2 was ready to undergo punishment i.e., payment of fine of Rs.2,000/- or 3 months simple imprisonment, then the vehicle may be released will not cause any prejudice to the prosecution case.

12. Further, after such a simple imprisonment and payment of fine amount, the question arises as to what would be the source for her livelihood in future. Hence, the order of confiscation of said vehicle to the State is definitely

leads to infringement of right life and personal liberty of Accused No 2 which is provided under Article 21 of the Indian Constitution. Moreover, punishment imposed to both the accused by the Trial Court are either fine or simple imprisonment and not an imprisonment for life or death. In such circumstances the Trial Court ought to have applied its mind as to whether to confiscate the vehicle which is used for livelihood of accused No.2 is rational or irrational. The order of the Trial Court for confiscation of the vehicle to the state though its RC owner is available before Court is erroneous. It requires interference of this Court. As per facts and circumstances of the case and above discussions it is clear that the judgment of Trial Court shall be modified. Accordingly, point No.1 is answered in the affirmative.

13. Point No 2 : According to affirmative answer to Point No 1, this Court proceeds to pass the following;

ORDER

The appeal filed by the appellant is hereby allowed.

The Judgment passed by the Principal Senior Civil Judge and JMFC, Pandavapura, in C.C.No.259 of 2023 dated 20.12.2025, is hereby modified as;

“The Tipper Lorry bearing registration No. KA-11/B-5779 is hereby released in favour of accused No.2 subject to the following conditions;

- She execute idemnity bond in a sum of Rs. 5,00,000/- with one surety for the like sum.*
- She shall not alienate and change the colour of the same till the appeal against the present order.*
- She shall produce said vehicle before the Court as and when directed by this Court”.*

It is directed to secure fresh photographs of vehicle from identifiable angles while releasing the vehicle and keep that photographs in file.

Send back Trial Court Records along with copy of Judgment forthwith.

[Dictated to the Stenographer Grade-1, transcript corrected and pronounced by me in open Court on this the 28th day of July, 2026]

[Jyothsna D]

III Addl. District & Sessions Judge,

Mandya, [Sitting at Srirangapattana].