

ORDER ON SEC.299 of CR.P.C

Accused No.4 by name Shahid Pasha is absconding.

Heard PP regarding LPR and perused the entire material on record.

This is a split up case from SC.No.156/2013 against accused No.4 Shahid Pasha and accused No.5 Ajaaj Ahmmed, as they have been absconded.

The offence alleged against these accused No.4 and 5 are punishable U/s 120(B), 396, 397 R/w 149 of IPC.

During the proceedings of this SC.No.92/2018, the accused No.5 Ajaaj Ahmmed's presence has been secured and he has faced the Trial in SC.No.156/2013 along with other accused.

Now, accused No.4 Shahid Pasha's presence has not been secured. So, this Court has issued NBW against him several times. But his presence has not been secured. Thereafter, proclamation has been issued U/s 82 of Cr.P.C and it was returned duly executed. The proclamation was duly published. Thereafter, attachment warrant has been issued against the accused U/s 83 of Cr.P.C and the revenue officer of Kilachur, Amaicut Taluk, Vellore District, Tamil Nadu has sent a report that the accused No.4 by name Shahid Pasha does not possess any movable and immovable properties in the given address.

My predecessor in office has recorded the evidence U/s 299 of Cr.P.C. Evidence of C.W.32, 27, 28, 11, 22, 35, 2 and additional witnesses by name C.Kumaraswamy and Mallaraju.M has been recorded. Further, PP filed a memo on 04/02/2021 praying this Court to adopt the evidence of P.W.1, P.W.3 to 7, P.W.9, P.W.15 to 20, P.W.22 to 26 recorded in SC.No.156/2013 as the evidence U/s 299 of Cr.P.C. The said memo was allowed by my predecessor in office on 25/02/2021 and directed the office to keep the certified copies of the evidence along with the documents in this file also.

Additional witness by name C.Kumaraswamy, HC.244, Lashkar Police Station, Mysuru, has been examined as P.W.1 U/s 299 of Cr.P.C who has deposed about his visit to the village by name Palligunda, of accused No.4 Shahid Pasha and his enquiry in the said village about his whereabouts and also execution of tom-tom in the said village in public and affixation of copies of proclamation in the notice board of Grama Panchayath and bus stand of the said

village. He has also deposed about the mahazar drawn by him in the presence of panch witnesses. The said mahazar has been marked as Ex.P3 and his signature at Ex.P3(a). The proclamation issued by this Court against accused No.4 has been marked as Ex.P4. The passport issued by his department to visit the village of accused No.4 has been marked as Ex.P5. His report regarding the publication of proclamation has been marked as Ex.P6 and his signature as Ex.P6(a). Thus, as per the documents produced by him as well as his evidence, proclamation has been executed properly against accused No.4 in this case.

Another additional witness by name Mallaraju.M, HC.No.509, Lashkar Police Station, Mysuru, has been examined as P.W.10. He has also deposed about his visit to the village of Pallikondam, Vellore Taluk and District. He has also produced the report given by Village Administrative Officer of the said taluk that the accused No.4 by name Shahid Pasha does not have any movable and immovable properties in the given address. The attachment warrant issued by this Court has been marked as Ex.P15 and report of VAO has been marked as Ex.P16. His report to this Court has been marked as Ex.P17. Thus, the attachment warrant issued against accused No.4 Shahid Pasha has been executed properly.

In view of the above, as the present whereabouts of the accused is not known and as his presence cannot be secured in near future, the office is hereby directed to submit the entire record to the Hon'ble High Court of Karnataka, praying permission to transfer this case to Long Pending Register.

III AD&SJ, Mysuru.