



**THE COURT OF THE III ADDL. DISTRICT & SESSIONS
JUDGE, RAMANAGARA**

PRESENT:

**Sri. S.A.Hidayathulla Shariff, B.A.,LL.M.,
III Addl. Dist. & Sessions Judge, Ramanagara.**

Dated this the 25th day of July, 2026

S.C.No.68/2018

Complainant: The State
by Tavarekere P.S.

(By learned Public Prosecutor)

Vs.

Accused : Sri.Naveenkumar,
S/o Lakshmana.
Aged about 22 years,
R/atNo.518, 2nd Main,
Sri Chakra Nagara, Andarahalli,
Yashvantapura Hobli,
Bengaluru North Taluk,
Bengaluru- 560 091.

(By Sri.T.G., Advocate for A1)

1	Date of commission of offence	17.02.2014
2	Date of report of offence	17.02.2014
3	Date of arrest of Accused	17.02.2014
4	Date of release on bail	-----
5	Period undergone in custody	-----

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6	Name of the Complainant	Sri. Jagadhisha N. PSI.
7	Date of commencement of recording of evidence	28.03.2026
8	Date of closing of evidence	03.07.2026
9	Opinion of the Judge	Accused found not guilty/Charge not proved.
10	Offences complained of	U/Sec.399, 402 & 353 of IPC.

J U D G M E N T

The Circle Inspector of Police, Magadi Circle, has filed charge sheet against accused No.1 to 6 for the offence punishable under Sections 399, 402 & 353 of IPC. The trial Court has taken cognizance of the offences against the accused persons and committed the case for trial. In S.C.No.121/2014 accused persons have stood trial. In S.C.No.121/2014 accused No.1 Naveen Kumar failed to appear before Court. As a result of which he was split up from the said case and separate case in S.C.No.68/2018 was registered accused No.1- Naveen Kumar.

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2. The case of prosecution in brief is that, on 17.02.2014 at about 5-30 a.m., within the jurisdiction of Tavarekere Police Station on the road proceeding from Chikkanahalli to Manchanabale, near Manchanabale Check Post, accused No. 1 along with accused No.2 to 6 after making preparation to commit Dacoity armed with deadly weapons has assembled. CW1 the PSI., of Tavarekere Police along with other police constables conducted raid on the accused persons. Accused persons have used criminal force on the PSI and other police constables by throwing chilly powder on them to deter them from discharging their duties as public servants. Accused No.1 to 4 were arrested on the spot and accused No.5 and 6 have escaped from the place of occurrence. The PSI of Tavarekere Police Station in presence of pancha witnesses has drawn seizure mahazar and recovered three longs, two clubs and chilly powder from the possession of the accused persons.

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3. After filing of the charge sheet accused was produced before the Court under body warrant. Accused No.1 was granted bail by this Court. Accused No.1 was represented by counsel. My predecessor in office has framed charges against the accused person for the offences punishable under Section 399, 402 and 353 of IPC. Accused pleaded not guilty of the charges levelled against him and stood for trial.

4. In proof of its case, prosecution has got examined four witnesses as PW1 to PW4 and tendered Ex.P1 to PW5 documents in evidence.

5. After prosecution evidence, statement of the accused as required under Section 313 of Cr.P.C., was recorded with reference to the incriminating evidence found against the accused. Accused has denied the incriminating evidence found against him. Accused has not lead any defence evidence.

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6. The points that arise for consideration of this Court are:

1) Whether the prosecution proves beyond all reasonable doubt that, on 17.02.2014 at about 5-30 a.m., within the jurisdiction of Tavarekere Police Station on the road proceeding from Chikkanahalli to Manchanabale, near Manchanabale Check Post, accused No.1 along with accused No.2 to 6 armed with deadly weapons had made preparation to commit dacoity. Thereby, accused No.1 has committed an offence punishable under Section 399 of IPC?

2) Whether the prosecution further proves beyond all reasonable doubt that, on the above mentioned date, time and place, accused No.1 along with accused No.2 to 6 armed with deadly weapons after making preparation has assembled to commit dacoity, thereby accused No.1 has committed an offence punishable under Section 402 of IPC?

3) Whether the prosecution further proves beyond all reasonable doubt that, on the above mentioned date, time and place, accused No.1 along with accused No.2 to 6 after making preparation has assembled to

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commit dacoity and when the first informant PSI along with CW4 to CW7 other police constables of Tavarekere Police Station have conducted raid on the accused persons and tried to arrest them, accused No.1 has used criminal force on the police personnel by throwing chilly powder on their faces to deter them from discharging their duties as public servants, thereby, accused No.1 has committed an offence punishable under Section 353 of IPC?

4) What Order?

7. Heard learned Public Prosecutor and learned counsel for the accused No.1. Perused the materials placed on record.

8. My findings to the above points are as follows:

Point No.1: In the Negative,

Point No.2: In the Negative,

Point No.3: In the Negative,

Point No.4: As per final order,
for the following:

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REASONS

9. **POINT Nos.1 to 3:-** Since these three points are inter-connected with each other, to avoid repetition of facts and findings, these three points are taken up together for consideration.

To prove the charges levelled against the accused, prosecution has led following evidence.

10. Prosecution has got examined PW1- Sridhar and PW2- Manjunath as the two eyewitnesses of the alleged offences committed by the accused and also two attestors to Ex.P1- seizure mahazar drawn at the place of occurrence. PW1 and PW2 have not supported the prosecution case and turned hostile to the prosecution case by stating that they have signed Ex.P1 seizure mahazar at Tavarekere Police Station about 4 years ago and in their presence police have not recovered any material objects from the possession of the accused persons.

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11. Since PW1 and PW2 have not supported the prosecution case, they were treated as hostile witnesses by the prosecution and cross-examined. PW1 and PW2 in their cross-examination by the prosecution have denied the contents of Ex.P2 and P3 their respective statements recorded by the police and also with regard to the contents of Ex.P1 seizure mahazar to the effect that accused No.1 along with accused No.2 to 6 after making preparation to commit dacoity has assembled near Manchanabele check post and when the police have conducted raid accused has used criminal force against the police by throwing chilly powder to deter them from discharging their duties as public servants. PW1 and PW2 in their cross-examination by the prosecution have also denied the case of prosecution with regard to recovery of three longs, two clubs and chilly powder from the possession of the accused persons under Ex.P1 seizure mahazar at the place of occurrence.

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12. Prosecution has got examined PW3- Jagadeesh N., the then PSI., of Tavarekere Police Station as the first informant I.O., of the present case. PW3 in his evidence has deposed that on 17.02.2014 at about 5-00 p.m., he had received a credible information about presence of six persons near Manchanabele Check Post assembled to commit dacoity. Immediately, he along with CW4 to CW7 police constables reached Manchanabele Check Post and found six persons assembled there after making preparation to commit dacoity. When he has raided the persons assembled to commit dacoity they have thrown chilly powder on the police personnel. They have apprehended accused No.1 to 4 at the place of occurrence and accused No.5 and 6 escaped from the place of occurrence. He has prepared Ex.P1 seizure mahazar and in presence of pancha witnesses has recovered three longs, two clubs and chilly powder from the possession of accused No.1 to 4. accused No. 1 to 4 were brought to Tavarekere Police Station. He has lodged Ex.P1 first information statement on

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suo-motu and registered a case against the accused persons in Crime No.98/2014 and prepared Ex.P5 first information report. He conducted further investigation arrested accused No.1 to 4 recorded their voluntary statements. He has also recorded the statements of police personnel who accompanied him to conduct raid. PW3 in his evidence has identified accused No.1 before the Court.

13. Prosecution has got examined PW4- I.S. Nagaraju, the then Police Constable of Tavarekere Police Station as one of the member of the police riding party. PW4 has given evidence in the same terms as that of PW3 with regard to the preparation and assemblance of accused persons near Manchanabele Check Post to commit dacoity and the alleged raid conducted by the police and also with regard to the criminal force used by the accused persons on the police personnel to deter them from discharging their duties and arrest of accused No.1 to 4 at the place occurrence and recovery of three longs,

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two clubs and chilly powder from the possession of the accused persons under Ex.P1 seizure mahazar.

14. A perusal of the evidence on record discloses that according to prosecution PW1 Sridhar and PW2 Manjunath the two independent eyewitnesses have accompanied the police riding party when the police have conducted raid on the accused arrested, accused No.1 to 4 and recovered dangerous weapons from the accused persons. In the present case, PW1 Sridhar and PW2 Manjunath the two eyewitnesses of the alleged offences committed by the accused persons and also the attestors to Ex.P1 seizure mahazar are the prime witnesses of the prosecution case. In the present case, PW1 and PW2 have not supported the prosecution case with regard to the alleged offences committed by the accused and also the with regard to the recovery of any dangerous weapons from the possession of the accused under Ex.P1 seizure mahazar. The very fact that PW1 and PW2 the two independent eyewitnesses and attestors

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to Ex.P1 seizure mahazar have not supported the prosecution case is a strong circumstance which create serious doubt with regard to the credibility and trustworthiness of the prosecution case.

15. In the present case, a perusal of evidence on record discloses that PW3 the first informant PSI and PW4 one of the member of the police riding party have given evidence supporting the prosecution case to the effect that when they conducted raid on the accused persons, they found accused persons armed with dangerous weapons have assembled at the place of occurrence by making preparation to commit dacoity. When they tried to arrest the accused persons, accused persons have used criminal force against the police personnel by throwing chilly powder to deter the police personnel from discharging their duties as public servants. However, the evidence of PW3 and PW4 with regard to the alleged offences committed by the accused persons is not corroborated by any independent evidence. Under the facts and circumstances of the case, this Court is of the opinion

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that it is not safe to place reliance on the uncorroborated evidence of PW3 and PW4 with regard to the alleged offences committed by the accused.

16. A perusal of the evidence on record discloses that PW3- Jagadeesh the first informant of the present case has also taken active part in the investigation by recording the alleged disclosure statements of the accused persons and also the statements witnesses. The dual role played by PW3- Jagadeesh as the first informant of the case also acting as Investigating Officer of the case by taking active part in the investigation has certainly caused prejudice to the fair investigation of the case. This is another circumstance which goes against the case of the prosecution.

17. The Apex Court of the land in the decisions reported between **Maljit Singh Vs. State reported in AIR 1970 SC 713** and in the decision reported between **Chaturji Jadav Vs. State reported in AIR**

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1973 SC 1943 has held that, preparation consisting devising or arranging the means or measures necessary for the commission of the offence. It was further held that, mere fact that accused persons were found in the mid-night does not by itself prove that they had assembled for the purpose of committing dacoity or making preparation to accomplish the object.

18. In light of the ratio of the above cited decisions, a perusal of evidence on record discloses that prosecution has not produced reliable evidence to prove that accused have devised or arranged the means or measures necessary for commission of the dacoity. In the absence of reliable positive evidence to prove that accused have made preparation for commission of the dacoity, the evidence produced on record is not sufficient to come to the conclusion that accused have assembled at the place of occurrence by making preparation for commission of dacoity.

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19. By perusing the evidence produced on record and overall assessment of the same, I am of the opinion that the evidence on record is not sufficient to prove the charges levelled against the accused beyond reasonable doubt. Hence, I answer point No.1 to 3 in the 'Negative'.

20. **POINT No.4** :- In view of my findings on point No.1 to 3 in the 'Negative', and the reasons assigned thereon, I proceed to pass the following:

ORDER

Acting under Section 235(1) of Criminal Procedure Code, accused No.1 is hereby acquitted for the offences punishable under Section 399, 402 and 353 of I.P.C.

Accused is ordered to be set at liberty.

The bail bonds and surety bonds of accused shall stands cancelled.

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(Dictated to the Stenographer Grade I, transcribed by her, corrected, signed and then pronounced by me in the open Court on this the 25th day of July, 2026.)

(S.A. Hidayathulla Shariff)
III Addl.District & Sessions Judge,
Ramanagara.

:ANNEXURES:

I List of witnesses examined for the Prosecution:-

P.W.1 : Sridhar.
P.W.2 : Manjunath.
P.W.3 : Jagadeesh N.
P.W.4 : I.S. Nagaraju.

II List of Exhibits marked for the prosecution:-

Ex.P.1 : Panchaname.
Ex.P.1(a) : Signature of PW1.
Ex.P.1(b) : Signature of PW2.
Ex.P.1(c) : Signature of PW3.
Ex.P.2 : Statement of PW1.
Ex.P.3 : Statement of PW2.
Ex.P.4 : Complaint.
Ex.P.5 : FIRNo.98/2014.
Ex.P.5(a) : Signature of PW1.

III List of witnesses examined for the Accused:

-NIL-

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**IV List of Exhibits marked for the Accused:**

-NIL-

V List of Material Objects marked for the prosecution:

-NIL-

III Addl.District & Sessions Judge,
Ramanagara.

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