

2 ನೇ ಅಪರ ಸಿವಿಲ್ ಜಡ್ಜ್ ಮತ್ತು ಜೆ ಎಂ ಎಫ್ ಸಿ ರವರ ನ್ಯಾಯಾಲಯ,
ಕನಕಪುರ_

ಸಿ.ಸಿ.ನಂ.932/2013

:: ದೋಷಾರೋಪಣೆ ::

ಶ್ರೀ ಹನುಮಂತ ಜಿ.ಹೆಚ್. ಬಿ.ಎ.ಎಲ್. ಎಲ್.ಎಲ್.ಎಮ್., ಪ್ರಭಾರ ೨ ನೇ ಅಪರ
ಸಿವಿಲ್ ಜಡ್ಜ್ ಮತ್ತು ಜೆ ಎಂ ಎಫ್ ಸಿ, ಕನಕಪುರ ಆದ ನಾನು

೧. ಬಾಬು ಬಿನ್ ಕೃಷ್ಣಪ್ಪ
ವಯಸ್ಸು ೨೮ ವರ್ಷಗಳು
ವಾಸ: ಬೆಂಗಳೂರು

೨. ಸುರೇಶ್ ಬಿನ್ ದೊಡ್ಡಹೈದೇಗೌಡ
ವಯಸ್ಸು ೩೦ ವರ್ಷಗಳು
ವಾಸ: ಬೆಳತ್ತೂರು ಗಾಮ
ಮಳವಳ್ಳಿ ತಾಲ್ಲೂಕು

ಎಂಬ ಆರೋಪಿತರಾದ ನಿಮ್ಮ ಮೇಲೆ ಈ ಕೆಳಗಿನಂತೆ ಹೊರಿಸುವ
ದೋಷಾರೋಪವೇನೆಂದರೆ :-

ದಿನಾಂಕ.೨೯.೦೬.೨೦೧೩ರಂದು ಬೆಳಿಗ್ಗೆ ೫:೦೦ ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಕನಕಪುರ
ಗ್ರಾಮಾಂತರ ಪೊಲೀಸ್ ಠಾಣೆ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ದೊಂಬರದೊಡ್ಡಿ ಗ್ರಾಮದ ಬಳಿ
ಆರೋಪಿತರಾದ ನೀವು ಇತರ ಆರೋಪಿತರೊಂದಿಗೆ ಸೇರಿಕೊಂಡು ಅಕ್ರಮವಾಗಿ ಸರ್ಕಾರಕ್ಕೆ
ಸೇರಿದ ಮರಳನ್ನು ಲಾರಿಗಳಲ್ಲಿ ಸಾಗಾಣಿಕೆ ಮಾಡುವ ಮೂಲಕ ಭಾರತೀಯ ದಂಡ ಸಂಹಿತೆ ಕಲಂ
೩೭೯ ರಡಿಯಲ್ಲಿ ಶಿಕ್ಷಾರ್ಹ ಅಪರಾಧವನ್ನು ಎಸಗಿದ್ದು, ಅದು ನನ್ನ ಸಂಜ್ಞೆಯಲ್ಲಿ ಬರುತ್ತದೆ.

ನಾನು ಈ ಮೇಲಿನ ದೋಷಾರೋಪಣೆಗಳ ಮೇಲೆ ಈ ನ್ಯಾಯಾಲಯದ
ವಿಚಾರಣೆಗೆ ನೀವು ಗುರಿಯಾಗಬೇಕೆಂದು ನಿರ್ದೇಶಿಸುತ್ತೇನೆ.

ಪ್ರಭಾರ ೨ ನೇ ಅಪರ ಸಿವಿಲ್ ನ್ಯಾಯಾಧೀಶರು ಮತ್ತು
ಜೆಎಂಎಫ್‌ಸಿ, ಕನಕಪುರ.

2 ನೇ ಅಪರ ಸಿವಿಲ್ ಜಡ್ಜ್ ಮತ್ತು ಜೆ ಎಂ ಎಫ್ ಸಿ ರವರ ನ್ಯಾಯಾಲಯ,
ಕನಕಪುರ_

ಸಿ.ಸಿ.ನಂ.932/2013

ದೋಷಾರೋಪಣೆ

೧. ಬಾಬು ಬಿನ್ ಕೃಷ್ಣಪ್ಪ
ವಯಸ್ಸು ೨೮ ವರ್ಷಗಳು
ವಾಸ: ಬೆಂಗಳೂರು
೨. ಸುರೇಶ್ ಬಿನ್ ದೊಡ್ಡಹೈದೇಗೌಡ
ವಯಸ್ಸು ೩೦ ವರ್ಷಗಳು
ವಾಸ: ಬೆಳತ್ತೂರು ಗಾಮ
ಮಳವಳ್ಳಿ ತಾಲ್ಲೂಕು

ನಿಮಗೆ ಓದಿ ಹೇಳಿದ ದೋಷಾರೋಪ ಅರ್ಥವಾಯಿತಾ?

ಉ: ಹೌದು

ನೀವು ತಪ್ಪು ಒಪ್ಪಿಕೊಳ್ಳುವಿರೋ ಅಥವಾ ವಿಚಾರಣೆ ಆಗಬೇಕಾ?

ಉ: ತಪ್ಪನ್ನು ಒಪ್ಪಿಕೊಳ್ಳುತ್ತೇವೆ.

ಮೇಲಿನ ಹೇಳಿಕೆಯನ್ನು ಆಪಾದಿತ ರಿಗೆ ಓದಿ, ಹೇಳಿ ತಿಳಿಸಿ ಅವರ ಹೇಳಿಕೆ
ಪಡೆದುದಾಗಿ ದೃಢೀಕರಿಸುತ್ತೇನೆ.

ಪ್ರಭಾರ ೨ ನೇ ಅಪರ ಸಿವಿಲ್ ನ್ಯಾಯಾಧೀಶರು ಮತ್ತು
ಜೆಎಂಎಫ್‌ಸಿ, ಕನಕಪುರ.

The case is advanced upon the advancement application filed by counsel for the accused No.1 and 2.

Accused No.1 and 2 are present and want to plead guilty.

Sri. MM files an application U/sec. 70(2) Cr.P.C to accused No.1 and 2.

Learned APP has filed memo stating that the Kanakapura Rural Police have filed charge sheet against accused for the offences punishable U/ Sec. 21 of MMDR Act and Sec. 379 of IPC. She has also stated that the charge is framed for the offence punishable U/sec. 379 of IPC by dropping the penal provisions of Sec. 21 of MMDR Act. It is also stated that the accused have committed the offences of illegal extracting and transporting the

sand in the vehicle and caused loss environment. The court also released the vehicles with conditions. It is further stated that the court taking cognizance U/sec. 21 of MMDR Act has to confiscate the vehicle or other materials seized as per section 4 of the Act. It is further stated that since the accused want to plead guilty, the maximum punishment is to be imposed against them for the offences punishable U/sec. 21 of MMDR Act and Sec. 379 of IPC and also the vehicles are to be confiscated to the state.

Heard and perused materials on record.

The PSI of Kanakapura Rural PS has filed charge sheet against the accused for the offences punishable U/sec. 21 of MMDR Act and Sec. 379 of IPC.

Sec. 22 of the MMDR Act provides that no court shall take cognizance of any offence under the Act except upon the

€

complainant in writing made by a person authorized by the central government or state government.

In the case of **Vivek and another Vs. the State of Karnataka {(2018) 2 KCCR 1239,}** the Hon'ble High Court of Karnataka held at guidelines 2 and 4 that (a) the police cannot file a final report under Sec.173 of Cr.P.C for the offences under the MMDR Act and KMMC Rules either to the jurisdictional JMFC Court or to the Special Court. However, they can file the report for the offences under the IPC or any other penal law for the time being in force before the jurisdictional Magistrate and (b) a private complaint is only contemplated under the MMDR Act and KMMC Rules and thus it has to be filed U/Sec.22 of the Act by the competent authorized officer under the MMDR Act and KMMC Rules.

In view of the above ruling and provision of law, it is clear that the police have no power under MMDR Act to file

final report for the offences there under. But they can file it for offences punishable under IPC or other laws.

In the present case also, the police have filed the charge sheet for the offences mentioned the above. They or any authorized person have not filed any complaint as contemplated U/sec. 22 of the MMDR Act. When the police have no power to file charge sheet against the accused for the offences punishable under penal provisions of MMDR Act, the question of application of the provisions of the said Act does not arise. Such being the case, it is not necessary to proceed against the accused for the offence punishable U/sec. 21 of MMDR Act. Further, the question of confiscation of the vehicle also does not arise. The only recourse available to the court is to proceed against the accused for the offence punishable U/sec. 379 of IPC.

Consequently, the memo filed by learned APP is rejected.

The accused No.1 and 2 are discharged from the offence punishable U/sec. 21 of MMDR Act.

The charge for the offence punishable U/sec. 379 of IPC is framed, read over and explained to accused No.1 and 2. They have pleaded guilty. Hence, I proceed to pass the following.

ORDER

Acting U/Sec.241 Cr.P.C, the accused No.1 and 2 are convicted for the offence U/sec. 379 of IPC and they are sentenced to pay a fine of Rs.5,000/-each for simple imprisonment for a period till rising of the court. In default of payment of fine, they shall under go for S.I. for a period of 03 months.

Office is to collect the fine amount of Rs.10,000/-.

Interim order of the vehicle is made absolute pertaining to accused No.1 and 2.

Warrant is recalled on penalty of Rs.300/-each. Issue intimation to police.

Call on 21.10.2019

**C/c II Addl. Civil Judge and JMFC.
Kanakapura.**

BEFORE LOK-ADALATH

In view of payment of fine amount and serving of sentence by the accused, this case is closed before lok-adalath.

Advocate
conciliator

Judicial
conciliator