



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 7 OF 2026 (449(Cr.PC) /
495(BNSS))

BETWEEN:

1. MOHAMMED RAFEEQ
S/O. M K ISMAIL,
AGED ABOUT 47 YEARS,
R/AT NO.2/119,
SHANTINAGARA HOUSE,
KAMALABETTU POST AND VILLAGE,
VITLA MUNOORU,
BANTWAL TALUK,
D.K.DISTRICT- 574 243.
2. RESHMA
W/O. MOHAMMED
AGED ABOUT 60 YEARS
R/AT NO1-6-136/1,
KANCHINARKA, PADAVIDRI,
UDUPI TALUK,
UDUPI DISTRICT- 574 111.

...APPELLANTS

(BY SRI. LETHIF B.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY MANGALURU NORTH POLICE STATION,
D.K.DISTRICT.
REPRESENTED BY
S.P.P. HIGH COURT BUILDING,
BENGALURU -560 001.

...RESPONDENT

(BY SRI. M.DIWAKAR MADDUR, HCGP FOR R1)





THIS CRL.A IS FILED U/S 449 CR.PC (FILED U/S 495 OF BNSS) BY THE ADVOCATE FOR THE APPELLANT PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO SET ASIDE PROCEEDINGS IN THE CRL. MISC.NO.851/2024 ON THE FILE OF PRINCIPAL DISTRICT AND SESSIONS JUDGE, MANGALURU, D.K AGAINST THE APPELLANTS.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. Appellants have preferred this appeal against the order dated 02.08.2025 passed in Crl.Misc.No.851/2024 by the VI Additional District Judge, Mangaluru, Dakshina Kannada (for short 'the trial Court').

2. It is submitted by the learned counsel for appellants that the Learned Sessions Judge has initiated the proceedings under Section 446 of Cr.P.C without providing an opportunity to appellants to file any objection or explanation under Section 446(3) of Cr.P.C. The proceedings in Crime No.132/2019 was charge sheeted in CC.No.989/2020 in which the accused No.81 challenged the proceedings before this Court in Criminal Petition



No.9444/2022. This Court quashed the proceedings against accused No.81 by passing a detailed order. Hence, further proceedings against the sureties is liable to be set aside.

3. The appellants have stood as sureties to the accused No.81 who had been acquitted by this Court and challenged the proceedings in the year 2022. When the proceedings were stayed, the question of appearance of accused does not arise and there was a communication gap between the accused and the appellants to proceed under section 446 of Cr.P.C.

4. The appellant No.1 is a coolie and appellant No.2 is a homemaker having no other property other than the property which was placed as surety.

5. The trial Court directly forfeited the bail bonds and imposed such condition to pay the entire bail bond which is very much harsh as per the judgment of the Hon'ble Supreme Court in Mohammed Kuniju v. State of Kerala.



6. The trial Court, without assigning any reasons, proceeded to pass the impugned order against the appellants. On all these grounds, it is sought to allow the appeal.

7. Appellants have produced the copy of the order passed by the Co-ordinate Bench of this Court in Crl.P.No.9444/2022 dated 01.04.2025 wherein the Co-ordinate Bench of this Court has quashed the proceedings pertaining to CC.No.989/2020 pending on the file of the Court of II-Mangaluru North Mangaluru, arising out of Crime No.132/2019, Mangaluru North Police Station and consequent proceedings.

8. In Crl.P.No.9444/2022, Abdul Jaleel. K. @ Jaleel Krishnapura the accused No.81 is the petitioner No.3. Since the proceedings against the accused are quashed by the Co-ordinate Bench of this Court in Crl.P.No.9444/2022 dated 01.04.2025, it is not just and proper to proceed against the appellants to recover the bond amount.



9. Considering the submission made by the learned counsel for appellants, I proceed to pass the following:

O R D E R

(i) Appeal is ***allowed***.

(ii) The order dated 02.08.2025 passed in Crl.Misc.No.851/2024 by the VI Additional District Judge, Mangaluru, Dakshina Kannada, is set aside.

(iii) It is made clear that appellant Nos.1 and 2 need not pay the fine amount as per the order of trial Court.

**Sd/-
(G BASAVARAJA)
JUDGE**

DHA
List No.: 1 Sl No.: 1