



HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

CRIMINAL PETITION NO. 2176 OF 2019 (482(Cr.PC) /
528(BNSS))

BETWEEN:

STATE OF KARNATAKA BY
KADABA POLICE STATION
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING
BENGALURU - 1.

...PETITIONER

(BY SRI. M.R.PATIL, HIGH COURT GOVERNMENT PLEADER)

AND:

SHABIR @ MOHAMMAD SHABIRUDDIN
AGED ABOUT 27 YEARS,
R/O PALLATHAMULE HOUSE
SAVANUR VILLAGE,
PUTTUR TALUK-574201.

...RESPONDENT

THIS CRL.P IS FILED UNDER SECTION 482 OF THE CODE OF
CRIMINAL PROCEDURE, 1973 PRAYING TO SET ASIDE THE ORDER
DATED 11.09.2018 PASSED BY THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, D.K., MANGALURU, SITTING AT PUTTUR D.K IN
S.C.NO.5011/2016, WHEREIN THE TRIAL COURT WAS PLEASED TO
DISMISS THE APPLICATION FILED UNDER SECTIONS 230 AND 311
OF CR.P.C.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:





CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The State has filed this petition challenging the order dated 11.09.2018, passed by the V Additional District and Sessions Judge, Dakshina Kannada, Mangaluru, sitting at Puttur, Dakshina Kannada, in S.C No.5011/2016, by which an application filed by the State under Sections 230 and 311 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') was rejected.

2. The respondent was prosecuted for offences punishable under Sections 323, 333, 353 and 427 of the Indian Penal Code, 1860 and Section 3(1)(2) of the Prevention of Damage to Public Property Act, 1984. The Trial Court framed charges against the respondent and set down the case for trial. When the case was posted for recording the statement of the accused under Section 313 of Cr.P.C., an application was filed by the prosecution under Sections 230 and 311 of Cr.P.C. The Trial Court after considering the application, held that the application filed by the prosecution is to fill up the lapses of the Investigating Officer. It also held that the Public Prosecutor had



filed the said application and not the Investigating Officer. It, therefore, held that it was PW.15 - Investigating Officer who was the proper and competent person to file the application to examine any witnesses whose names are not mentioned in the charge sheet, but the application was not filed by the Investigating Officer. With that observation, the Trial Court rejected the application in terms of the Order dated 11.09.2018.

3. Being aggrieved by the said Order, the State has filed this petition.

4. The learned High Court Government Pleader appearing for the petitioner submitted that under Section 311 of Cr.P.C., the prosecution is entitled to summon any material evidence or examine any person to be present in the Court. He submits that by oversight, some witnesses were not cited in the charge sheet when it was filed by CW.17/PW.15 before the Trial Court. One of the witnesses sought to be examined by the prosecution was Dr.Govind Raj, who had issued C.T scan report of the head of PW.1 and which was referred to in the wound certificate issued by PW.8-Dr. Vijaya Kumar, who treated PW.1-



Mr.Shekar. The other witnesses sought to be examined were: Mr.Tharanath, Head Constable No.1178, who had arrested the accused and produced him before the Investigating Officer along with report; Mr.Krishnappa, Police Constable No.357, who had given the F.I.R to the Court and Mr.Bennichan, Police Constable, who had drawn the *mahazar*, and they are therefore, material for the purpose of proving the charges against the respondent. He, therefore, submits that an opportunity be granted to the prosecution to incorporate this additional evidence in the charge sheet.

5. The respondent though served with notice, has not appeared.

6. Having regard to the fact that the prosecution has proposed to examine witnesses, who were not cited in the charge sheet, it is PW.15 - Investigating Officer who had to justify as to why he had not mentioned the names of the aforesaid witnesses in the charge sheet, how and when the additional evidence was collected. He was also bound to establish how those additional evidence were relevant for the purpose of the charge sheet and how they are relevant for the



purpose of proving the charges against the respondent - accused beyond doubt. Instead of this, the Public Prosecutor had filed the application giving a bald statement that PW.15 - Investigating Officer was engaged in maintaining law and order and therefore, he could not mention the names of the aforesaid witnesses while filing the charge sheet. Therefore, the impugned order passed by the Trial Court is unexceptionable and no interference is warranted. However, if the petitioner desires to incorporate the additional evidence, it may do so in accordance with law through PW.15 - Investigating Officer, who had filed the charge sheet.

Criminal Petition stands ***disposed off*** on the above terms.

**Sd/-
(R. NATARAJ)
JUDGE**