



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

CRIMINAL APPEAL NO. 217 OF 2026

BETWEEN:

SRI MANNEL PURUSHOTTAM
S/O VITTHAL NAYAK,
AGED ABOUT 75 YEARS,
R/A SRI KRISHNA NOVELTY HOUSE
MARKET ROAD, MANGALURU - 575 001.

...APPELLANT

(BY SRI. VINOD KUMAR M.,ADVOCATE)

AND:

SRI MANNEL VAMANA NAYAK
S/O VITTHAL NAYAK
AGED ABOUT 77 YEARS,
PARTNER,
SRI KRISHNA NOVELTY HOUSE,
MARKET ROAD,
MAGALURU - 575001.

...RESPONDENT



THIS CRL.A SI FILED U/S 378(4) CR.PC (FILED U/S 419(4) OF BNSS) PRAYING TO A. SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 23.09.2020 ACQUITTING THE RESPONDENT/ACCUSED; B. GRANT SPECIAL LEAVE TO THE APPELLANT/COMPLAINANT TO FILE APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 23.09.2020 PASSED BY THE II ADDITIONAL CIVIL JUDGE AND JMFC, MANGALURU, IN CRIMINAL CASE NO. 745/2011; C. CONVICT THE RESPONDENT/ACCUSED FOR OFFENCES PUNISHABLE UNDER SECTIONS 406 AND 420 OF THE INDIAN PENAL CODE, 1860 AND SENTENCE THE RESPONDENT/ACCUSED ACCORDING TO LAW FOR THE SAID OFFENCES.

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

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL



ORAL JUDGMENT

This appeal is by the complainant being aggrieved by the order dated 23.09.2020 passed in C.C.No.745/2011, on the file of II Additional Senior Civil Judge and JMFC, Mangalore, D.K., (hereinafter referred to as 'the Trial Court'), by which the complaint filed by the complainant under Section 200 Cr.P.C. seeking to take cognizance and punish the accused-respondent herein has resulted in his acquittal.

2. The facts of the case are that complainant is the younger brother of the accused-respondent who had allegedly entrusted the accused-respondent with the responsibility in looking after and managing the affairs of the joint family property. It is alleged that taking advantage of the same accused-respondent herein had dealt with the properties as his exclusive properties. The trial Court after the trial has acquitted the accused-respondent. Aggrieved by which, the present appeal.

3. The present appeal is filed after a delay of 1900 days. The reasons assigned in the affidavit accompanying the application read as under:

"I state that there is a delay of 1595 days in filing the accompanying appeal, which is neither deliberate nor



intentional but solely on account of circumstances beyond my control. I am an aged person and, during the relevant period, I have been suffering from various age-related ailments and health complications, for which I was under continuous medical treatment and was advised rest, severely restricting my mobility and ability to attend to court and legal matters. Owing to my ill health and limited understanding of legal procedures, I was also dependent on others for legal advice, and I was, for a considerable period, under improper and incorrect guidance, as I was advised that no further remedy was effectively available against the order of acquittal and that pursuing an appeal would be futile. Only recently, on obtaining proper legal advice, I become aware that I could challenge the impugned judgment by way of the present appeal, whereupon I have acted with utmost diligence and promptness in filing the same. In these circumstances, I humbly submit that the delay of circumstances, I humbly submit that the delay of 1900 days is bona fide, sufficiently explained and liable to be condoned in the interest of justice, failing which I will suffer irreparable loss and grave prejudice.

4. *I further state that the period immediately following the impugned judgment coincided with the outbreak and continuance of the Covide-19 pandemic from 2020-2-22, during which there were repeated notion wide lockdowns, severe restrictions on movement, and substantial disruption of court functioning and access to legal services. On account of these unprecedented circumstances, I was unable to freely consult advocate, obtain proper legal advice, or effectively take steps for preparation and filing of the present appeal within the prescribed time. The pandemic situation, coupled with my age and health conditions compounded the difficulties in pursuing my legal remedies, and thus materially contributed to the delay, which is bona fide and deserves to be condoned in the interest of justice."*

4. The impugned order has been passed on 23.09.2020, except the reasons stated above, there is no acceptable reasons assigned as required under law. That apart, the dispute between the brothers is pertaining to the family property which seem to have been converted into a criminal



litigation. The Trial Court on merits has acquitted the accused-respondent.

5. Considering the facts and reasons assigned for seeking condonation of delay, this Court is not inclined to condone the same.

6. Apposite in this regard to refer the judgment of the Apex Court in the case of **Brijesh Kumar and Others vs. State of Haryana and Others** reported in **(2014) 11 SCC 351** at Paragraph No.10 it has been held that-

"10. The courts should not adopt an injustice oriented approach in rejecting the application for condonation of delay. However, the Court while allowing such application has to draw a distinction between delay and inordinate delay for want of bonafides of an inaction or negligence would deprive a party of the protection of Section 5 of the Limitation Act, 1963. Sufficient cause is a condition precedent for exercise of discretion by the Court for condoning the delay. This Court has time and again held that when mandatory provision is not complied with and that delay is not properly, satisfactorily and convincingly explained, the Court cannot condone the delay on sympathetic grounds alone."

Accordingly, IA No.2/2026 for condonation of delay is dismissed. Consequently, I.A.No.1/2026 for special leave and appeal is **dismissed**.

Sd/-
(M.G.S. KAMAL)
JUDGE

SA