



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL APPEAL NO.200051 OF 2026

BETWEEN:

SRI. MAHESH
S/O MALLIKARJUN VAIDIKAR
AGE 65 YEARS, OCC: BUSINESS
R/O NEAR LINGADA GUDI
MAKTAMPUR
KALABURAGI CITY-585101

...APPELLANT

(BY SRI. SHRAVANKUMAR GADIGAYYA MATH, ADVOCATE)

AND:

1. SRI. GUNDERAO
S/O PARAMESHWAR PATIL
AGED ABOUT 40 YEARS
OCC: VEDIOGRAPHER
R/O NEAR ASHOK HOTEL
RAJAPUR, KALABURAGI-585102

2. THE STATE OF KARNATAKA
BY TRAFFIC POLICE-2
KALABURAGI
REPRESENTED BY
ADDITIONAL STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
KALABURAGI BENCH
KALABURAGI HIGH COURT-585103

...RESPONDENTS





THIS CRL.APPEAL IS FILED U/S 413 OF BNSS (U/S 372 OF CR.P.C.) PRAYING TO ALLOW THIS APPEAL BY SETTING ASIDE BOTH THE ORDER DATED 02.11.2023 IN C.C.NO.78/2021 PASSED BY THE COURT OF II ADDL. SENIOR CIVIL JUDGE AND JMFC AT KALABURAGI AND THE ORDER DATED 17.11.2025 PASSED IN CRIMINAL APPEAL NO.19/2024 BY THE COURT OF III ADDL. DISTRICT AND SESSIONS JUDGE AT KALABURAGI.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

The Registry has raised an objection regarding maintainability of this appeal.

2. This is complainant's/victim's second appeal.

3. The appellant/victim preferred an appeal before III Addl. District and Sessions Judge, Kalaburagi (for brevity, "Appellate Court") in Crl.A.No.19/2024, by challenging the order of acquittal passed in C.C.No.78/2021 by II Additional Senior Civil Judge and JMFC, Kalaburagi (for brevity "Trial Court"), under Section 372 of Cr.P.C./413 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (for brevity, "BNSS"), the said appeal was dismissed by confirming the order of acquittal. Against the



said judgment, the victim/appellant preferred this second appeal under Section 413 of BNSS. Hence, the Registry raised an objection on maintainability of this second appeal under the very same provision.

4. It is submitted by the learned counsel for the appellant that under Section 413 of BNSS, the victim has a right of appeal against every order, acquitting or affirming an order of acquittal, where the appeal ordinary lies or else the victim would be left remediless.

5. Section 413 of BNSS reads as under:

“413. No appeal to lie unless otherwise provided.

No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Sanhita or by any other law for the time being in force: Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

6. On careful reading of the above provision, it is clear that the right to appeal accrues on the “victim” from



the instance of a Court acquitting the accused. The proviso to Section 413 of BNSS, makes it clear that such acquittal being passed by the Trial Court or Appellate Court. In the instant case, initially the Trial Court acquitted the respondent/accused and the said judgment was challenged by the victim/appellant before the Appellate Court under Section 413 of BNSS, 2023 i.e., where the appeal ordinarily lies. However, the Appellate Court affirmed the judgment of acquittal passed by the Trial Court. In such circumstance, the question arises for consideration is, whether second appeal is maintainable before this Court?

7. Admittedly, the appellant/victim invoked his right of appeal under Section 413 of BNSS, before the Appellate Court. The language employed in Section 413 of BNSS, would be restricted only to mean "an appeal", where the appeal ordinarily lies and another appeal cannot be preferred by the same appellant under the same provision.

8. Section 419(4) of BNSS reads as under:



“419. Appeal in case of acquittal.

(4) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.”

9. The above provision makes it clear that, a victim cannot file second appeal against the order of acquittal even by seeking special leave. Thus, it is clear that, affirming order of acquittal by the Appellate Court is final and not subject to review. Hence, in my considered view, this second appeal by the appellant/victim is not maintainable. The objection raised by the Registry is sustained.

10. The Registry shall return the certified copy of the impugned judgment to the appellant.

Sd/-
(RAJESH RAI K)
JUDGE