



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE R. NATARAJ

CRIMINAL REVISION PETITION NO. 672 OF 2014

BETWEEN:

AITHAPPA NAIKA

...PETITIONER

(BY SRI. DINESHKUMAR K. RAO, ADVOCATE FOR
SRI RAVINDRA B DESHPANDE, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY VITTAL POLICE STATION,
BANTWAL TALUKA-574 243

...RESPONDENT

(BY SMT. RASHMI JADHAV, HIGH COURT GOVERNMENT PLEADER)

THIS CRL.RP IS FILED UNDER SECTION 397 READ WITH SECTION 401 OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED:21.07.2014 PASSED BY I ADDL. DISTRICT AND SESSIONS JUDGE, D.K., MANGALORE IN CRL.A.NO.187/2013 AND JUDGMENT AND ORDER DATED: 07.07.2012 PASSED BY THE ADDL. CIVIL JUDGE AND JMFC, BANTWAL, D.K., IN CRIMINAL CASE NO.360/2008 AND ACQUIT THE PETITIONER.

THIS PETITION, COMING ON FOR HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

Digitally
signed by
SUMA

Location:
HIGH
COURT OF
KARNATAKA





ORDER

The petitioner has challenged the Judgment of conviction dated 07.07.2012 passed by the Additional Civil Judge and JMFC., Bantwal, Dakshina Kannada, (for short 'the Trial Court') in C.C. No.360/2008, by which he was convicted for the offence punishable under Section 326 of the Indian Penal Code, 1860 (for short, 'the IPC') and order of sentence dated 07.07.2012 directing him to undergo simple imprisonment for three days and to pay fine of Rs.10,000/-. The petitioner has also challenged the Judgment dated 21.07.2014 passed by the I Additional District and Sessions Judge, D.K., Mangalore, (for short, 'the Appellate Court') in CrI. Appeal No.187/2013, by which, the sentence ordered by the Trial Court was enhanced to two years rigorous imprisonment and fine of Rs.5,000/-.

2. Learned counsel for the petitioner after arguing the petition at length, submitted that having regard to the fact that the petitioner is aged 81 years and has no children but has an aged wife, who is dependent on him, and therefore prays that the sentence imposed by the Appellate Court and the Trial Court be modified. He further submits that the petitioner has



served sentence for three days and therefore, the sentence imposed by the Trial Court be restored.

3. Learned High Court Government Pleader submits that the petitioner is convicted for the offence punishable under Section 326 of the IPC which is punishable with imprisonment for life and therefore, the sentence awarded by the Appellate Court is just and proper.

4. At this stage, the learned counsel for the petitioner submitted that the petitioner is not involved in any other case and therefore, he may be sentenced to simple imprisonment for a period of three days that he has already undergone. Learned counsel also submits that the petitioner has deposited the fine amount as ordered by the Trial Court. He submitted that this Court may consider extracting work from him for any community service.

5. The petitioner is present before the Court and he has enclosed copy of Aadhaar card, which discloses his date of birth as 01.04.1942. Having regard to the fact that the petitioner has admitted his guilt and also having regard to the fact that the petitioner has undergone sentence of simple



imprisonment for three days as ordered by the Trial Court and also having regard to the fact that the petitioner is aged 81 years and has to look after his wife and has agreed to serve the community, this Court considers it appropriate to allow this Revision Petition and suitably modify the order of sentence passed by the Trial Court.

Accordingly, the Revision Petition is allowed in part. The Judgment of conviction dated 07.07.2012 passed by the Additional Civil Judge and JMFC., Bantwal, Dakshina Kannada, in C.C. No.360/2008 is upheld and the Order of sentence dated 07.07.2012 passed by the Trial Court in C.C.No.360/2008 is modified to the extent that the petitioner is sentenced to undergo simple imprisonment for three days and pay fine of Rs.10,000/- and also render honorary service to the community as stated in the following paragraph for a period of one year. The Judgment dated 21.07.2014 passed by the I Additional District and Sessions Judge, D.K., Mangalore, in Crl. Appeal No.187/2013 is set aside. The period of sentence already undergone by the petitioner is set off.

The petitioner shall serve honorarily and voluntarily at Anganawadi Centre, Mithanadka, Karopady village, Bantwal



Taluk, Dakshina Kannada, for a period of one year. The petitioner shall report at the Anganawadi Centre, Mithanadka, on **20.02.2023** and perform such works as may be entrusted to him to by the head of the Anganawadi centre, without expecting any salary. The Anganwadi Centre shall communicate the completion of community service by the petitioner / accused to the concerned Police Station.

**Sd/-
JUDGE**

SMA
List No.: 1 SI No.: 39