

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26th DAY OF NOVEMBER, 2020

BEFORE

THE HON'BLE MR.JUSTICE B.A.PATIL

CRIMINAL PETITION NO.2951/2020

C/W

CRIMINAL PETITION NO.3000/2020

R

IN CRIMINAL PETITION NO.2951/2020:

BETWEEN :

Hanumantha Mogaveera
S/o Pakirappa
Aged about 29 years
R/at Sri Manjunatha
Near Nooji School, Korgi Village,
Heskutur Post, Kundapura Taluk
Udupi District-576 231.

... Petitioner

(By Sri D.L.Jagadish, Senior Counsel for
Sri H.Pavana Chandra Shetty, Advocate)

AND :

State of Karnataka
by Women Police Station, Udupi,
Represented by State Public Prosecutor
High Court of Karnataka
Bengaluru-560 001.

... Respondent

(By Sri R.D.Renukaradhya, HCGP)

This Criminal Petition is filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.14/2019 of Udupi Women Police Station, Udupi, for the offences punishable under Sections 376(1) and 354(A) of IPC and Sections 5, 6, 21(2) of POCSO Act and Sections 3(1)(w)(i)(ii), 3(2)(v), 3(2)(va) of SC/ST (Prevention of Atrocities) Act.

IN CRIMINAL PETITION NO.3000/2020:

BETWEEN :

Hanumantha Mogaveera
S/o Pakirappa
Aged about 29 years
R/at Sri Manjunatha
Near Nooji School, Korgi Village,
Heskutur Post, Kundapura Taluk
Udupi District-576 231.

... Petitioner

(By Sri D.L.Jagadish, Senior Counsel for
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AND :

State of Karnataka
by Women Police Station, Udupi,
Represented by State Public Prosecutor
High Court of Karnataka
Bengaluru-560 001.

... Respondent

(By Sri R.D.Renukaradhya, HCGP)

This Criminal Petition is filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.16/2019 of Udupi Women Police Station, Udupi, for the offences punishable under Sections 376(1), 376(3),

377 and 506 of IPC and Sections 5(f)(o)(p)(i), 6, 21(2) of POCSO Act and Sections 3(1)(w)(i)(ii), 3(2)(v), 3(2)(va) of SC/ST (Prevention of Atrocities) Act.

These Criminal Petitions coming on for orders this day, the Court made the following:-

ORDER

Criminal Petition No.2951/2020 and Criminal Petition No.3000/2020 are filed by accused No.1 in Crime Nos.14/2019 and 16/2019 of Women Police Station, Udupi, for the offences punishable under Sections 376(1), 376(3), 377, 506 of IPC; Sections 5(f)(i)(o)(p), 6, 21(2) of the Protection of Children from Sexual Offences Act, 2012 ('the POCSO Act' for short); and Sections 3(1)(w)(i)(ii), 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. I have heard Sri.D.L.Jagadish, learned Senior Counsel for Sri.H.Pavana Chandra Shetty, learned counsel for the petitioner-accused No.1 and Sri.R.D.

Renukaradhya, the learned HCGP for the respondent-State in both the cases.

3. Though the two cases have been registered against the petitioner-accused No.1, the facts, allegations and question of law involved in both the cases are similar, they are clubbed together and common order is passed.

4. The case of the prosecution in brief is that in Criminal Petition No.3000/2020, one Kum.Kavya filed the complaint and in Criminal Petition No.2951/2020, the Protection Officer/Warden of District Children Protection Unit, Manipal, lodged a complaint alleging that victims are residing at Spoorthi Adoption and Fit Institution and they will also give the children who are there in adoption. It is further alleged that one Kum.Panchami has been given in adoption, but because of some difference between the adopted child and the family, adoption was cancelled and Panchami started staying in Spoorthi

Institution. It is further alleged that the petitioner-accused No.1 used to enter the institution during night hours and have sexual intercourse with the victims who are staying in the said Spoorthi Institution. It is further stated by the victim herself that the petitioner-accused No.1 and accused No.2 also used to enter the hostel illegally and used to sexually assault them. On the basis of the complaint filed by the victim, a case has been registered in Crime No.16/2019 and on the basis of the complaint filed by the Warden, a case has been registered in Crime No.14/2019.

5. It is the submission of the learned Senior Counsel for the petitioner-accused No.1 that already charge sheet has been filed and the petitioner-accused No.1 is in custody. It is his further submission that the cognizance of offence has been taken by the trial Court on 13.05.2019 and as per Section 35(1) of the POCSO Act, the evidence of the child has to be recorded within a

period of 30 days of taking cognizance of the offence by the trial Court and if it is not done, the reason for the delay has to be recorded by the said Court. It is his further submission that as per Section 35(2) of the POCSO Act, the trial Court has to complete the trial within a period of one year from the date of taking cognizance of the offence. It is his further submission that if the said mandate of the law is not followed by the trial Court, then under such circumstances, the petitioner-accused No.1 is entitled to be released on on bail. In order to substantiate the said contention he has relied upon the decision of the co-ordinate Bench in the case of ***Vinay Vs. State of Karnataka, rep. by Special PP*** in ***Criminal Petition No.1195/2017*** decided on 13.07.2017. It is his further submission that the petitioner-accused No.1 is in custody since 10.04.2019. It is his further submission that if the said mandates are not followed, the said non-compliance itself is going to give a right to the petitioner-accused No.1 to be enlarged

on bail. It is his further submission that the statement of the victim has been recorded under Section 164 of Cr.P.C by the learned II Additional Civil Judge and JMFC, Udupi on 18.03.2019. The said statement is contrary to the medical evidence. It is his further submission that in the said statement the name of the petitioner-accused No.1 is not present. It is his further submission that the victim has been taken to Kasturba Medical College and the opinion expressed by the Doctor indicates that no such sexual assault has been committed on the victim. It is his further submission that there is no material and no relationship whatsoever to the Institution concerned that of the complainant and it is accused No.2 who is concerned to the said Institution. There is no nexus and the petitioner-accused No.1 is fully an outsider and he has nothing to do with the alleged crime. It is his further submission that this Court while hearing the case on 29.07.2020 has directed the trial Court to complete the recording of the evidence of CWs.1 to 4 within a period of

three months from the date of permissibility of recording of evidence. However, till date no progress has been made and the order issued by this Court has not been followed by the trial Court. It is his further submission that the protection granted to the accused under Sections 438 and 439 of Cr.P.C invariably be limited to a fixed period and it ensures in favour of the accused without any restriction on time and therefore by imposing appropriate conditions, the accused can be released on bail. In order to substantiate his contention, he has relied upon the decision of the Hon'ble Apex Court in the case of ***Sushila Aggarwal and Others Vs. State (NCT of Delhi) and Another*** reported in ***2020 SCC Online SC 98***. It is further submitted that the liberty of the petitioner-accused No.1 has to be protected and if he is not going to be released, the personal liberty under the Indian Constitution is going to be violated. It is his further submission that the fundamental rights represent the basic values enshrined to the people of this country.

The aim behind having elementary rights of an individual, such as right to life and liberty, if it is not fulfilled as desired by the framers of the Constitution, then it is going to affect the liberty. It is his further submission that if petitioner-accused No.1 is not released on bail, the right to life and personal liberty is going to be affected. In order to substantiate the said contention, he has relied upon the decision in the case of ***Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others*** reported in ***(2011) 1 SCC 694***. It is his further submission that in *catena* of decisions of this Court, the similar view has been taken by this Court and has protected the liberty and it is the duty of the Court to protect the liberty of the individual. If the liberty has not been protected by the Court by exercising its jurisdiction in a proper way, then the society will be in trouble, the path of destruction will be opened. In that light, he has relied upon the decision of this Court in the case of ***Rakesh Shetty Vs. State of Karnataka by***

K.P.Agrahara Police Station in ***Criminal Petition No.5445/2020***, decided on 18.11.2020. It is his further submission that the petitioner-accused No.1 is ready to abide by any of the conditions that may be imposed by this Court and ready to offer sureties. On these grounds, he prays to allow the petition.

6. *Per contra*, the learned HCGP has vehemently argued and submitted that the statement of the victim recorded under Section 161 of Cr.P.C and subsequently recorded under Section 164 of Cr.P.C by the learned Magistrate, clearly goes to show the involvement of the petitioner-accused No.1 and has specifically stated the name of the petitioner-accused No.1 for having sexually assaulted the victim-complainant and other victims. It is his further submission that the medical records which have been produced by the learned Senior Counsel for the petitioner-accused No.1 clearly corroborate with the statement of the victim and the complaint. It is his

further submission that this Court by order dated 29.07.2020 has issued the direction and thereafter victim was present before the Court on 09.10.2020, but because of some constraints and restraints, the statement of victim has not been recorded and the Court has adjourned the case to 24.12.2020. It is his further submission that a similar issue came up before this Court with reference to the Provisions of Section 35 of the POCSO Act and after considering the entire material, this Court has come to the conclusion that though there is a mandate under Section 35 of the POCSO Act to record the evidence of the victim within 30 days and the Special Court has to complete the trial within one year from taking of cognizance of offence. But, this Court has interpreted the said Section and held that the Court has to try to dispose of the case as far as possible within outer limit of one year and it is not a mandate that within one year in a slab manner, the case has to be concluded. It is his further submission that there is ample material

and the delay is not the only ground to give benefit and to release the petitioner-accused No.1 on bail. In order to substantiate the said contention he has relied upon the decision of this Court in the case of **Arvind Kumar Vs. State of Karnataka, by Rajajinagar Police Station in Criminal Petition No.3672/2020**, decided on **01.09.2020**. On these grounds, he prayed to dismiss the petition.

7. I have carefully and cautiously gone through the submissions made on both sides and I have given my thoughtful consideration to the decisions, which have been quoted by them.

8. The first and foremost contention of the learned Senior Counsel for the petitioner-accused No.1 is that the mandate of the provisions of Section 35 of the POCSO Act has not been followed. The evidence of the victim has not been recorded within 30 days of taking cognizance and the trial has not been completed within

one year from the date of taking cognizance. He has brought to the notice of this Court the provisions of Section 35 of the POCSO Act, which read as under:-

"35. Period for recording of evidence of child and disposal of case.- (1) The evidence of the child shall be recorded within a period of thirty days of the Special Court taking cognizance of the offence and reasons for delay, if any, shall be recorded by the Special Court.

(2) The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence."

9. On close reading of sub-section (1) of Section 35 of the POCSO Act, it indicates that the evidence of the child shall be recorded within a period of 30 days of taking cognizance of the offence and reasons for delay shall be recorded by the Special Court.

10. As could be seen from the records in Crime No.16/2019 the statement of the victim has been recorded under Section 164 of Cr.P.C. on 18.03.2019. The said fact is not in dispute and it is noticed from the provisions of Section 164 of Cr.P.C., the amendment has been brought to Section 164 of Cr.P.C. during 2013 by inserting sub-section (5A) to Section 164 of Cr.P.C., which reads as under:-

"164 (5A) (a) *In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB, section 376E or section 509 of the Indian Penal Code (45 of 1860), the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police.*

PROVIDED that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

PROVIDED FURTHER that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed.

(b) A statement recorded under clause(a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 (1 of 1872) such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial."

11. On close reading of the said provision, the similar wordings have been used as contemplated under Section 35 of the POCSO Act and the Judicial Magistrate shall record the statement against whom the said offences have been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police and sub-clause (b) of Section 164 (5A) of Cr.P.C. indicates that the statement recorded under clause (a) of a person shall be considered as a statement in lieu of examination-in-chief as specified in Section 137 of the Indian Evidence Act and the maker of the statement can be cross-examined of such statement without the need for recording of the same at the time of trial.

12. On combined reading of Section 35(1) of the POCSO Act and Section 164(5A)(a) and (b) of Cr.P.C. it indicates that whatever the statement which has been recorded under Section 164 of Cr.P.C. is considered to be

the evidence under Section 137 of the Indian Evidence Act and admittedly the statement of the victim has been recorded on 18.03.2019. In that light, there is compliance of the provisions of Section 35(1) of the POCSO Act.

13. Even as could be seen from Section 31 of the POCSO Act, it indicates that the applicability of the provisions of Code of Criminal Procedure and the procedure adopted by the Special Court will be that of Code of Criminal Procedure and it will be considered to be a Court of Sessions and the procedure adopted for the Code of Criminal Procedure are also made applicable. Taking into consideration the aforesaid facts and circumstances of the case, I am of the considered opinion that there is compliance of the provisions of Section 35(1) of the POCSO Act.

14. On close reading of Section 35(2) of the POCSO Act, it indicates that some mandate has been issued to

complete the trial within a period of one year from the date of taking cognizance by the Special Court. The words used in between the said sentence are "as far as possible". If the entire sub-section (2) of Section 35 of the POCSO Act along with the words "as far as possible" is read, it indicates that it is not mandate of the law or the intention of the Legislation that the trial should be completed within a period of one year from the date of taking cognizance. The said Section itself has given some discretion to the Court and that is why the said Section uses the words "as far as possible". The trial Court can try to complete the trial within a period of one year.

15. Be that as it may, if the intention of the Legislature was to complete the trial within one year, then under such circumstances, definitely it ought not to have used the words "as far as possible" that itself indicates that the Legislature was intended to complete

the trial within one year by giving a speedy disposal so that the interest of the victim is protected and the liberty of the accused is also safeguarded. If the case is long pending without there being any recording of the evidence and its finality, then there will be a stigma on the victim and her future life will also be affected, that is not the intention for enacting this law. When the aforesaid principle of law indicates that the trial has to be completed within one year, that does not mean that a right has been created for the accused to be released on bail.

16. On perusal of Section 35 of the POCSO Act, it is not a default clause saying that if trial is not concluded within one year of taking cognizance and has not complied with, then under such circumstances, a right is going to be accrued to the accused to claim the right of bail. If the Legislature were intended to release the accused on bail, on default of not recording the evidence

within thirty days or trial has not been concluded within one year after taking cognizance, then, definitely the default clause could have been included in the said provision.

17. Be that as it may, as could be seen from Section 167(2) of Cr.P.C. where the law has provided a default clause that if within 60 days or 90 days, the charge sheet has not been filed as contemplated under the law, then the accused is entitled to be released on statutory bail only on filing of an application for release. Taking into consideration the object of the POCSO Act, the contention taken up by the learned Senior Counsel for the petitioner-accused No.1 is not acceptable. The object of the POCSO Act is to ensure the protection of the minor victims and the witnesses so as to render a speedy justice to the victims and if the contention of the Senior Counsel is accepted, then the very object of the POCSO

Act is going to be defeated. It is not a beneficial legislation to the accused.

18. As could be seen from the records, there is ample material as against the petitioner-accused No.1 and the statement of the victims recorded under Section 161 of Cr.P.C. and also under Section 164 of Cr.P.C. for having sexually assaulted the victims who were there in the said hostel. If the protectors are the sexual assaulters, then there will not be any Law and Order in the society like "*fence itself eating the crop*". Now-a-days many girls are left in Stay Homes or Hostels and if such a situation or circumstance exists, the confidence of such girls is going to be lost and the very purpose of the Constitution of empowerment of the women is going to fail.

19. Be that as it may, it is relevant to note Section 309 of Cr.P.C., which reads as under:-

"Section 309. Power to postpone or adjourn proceedings- (1) *In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:*

PROVIDED that when the inquiry or trial relates to an offence under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall be completed within a period of two months from the date of filing of the charge sheet.

(2) *If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time it*

considers reasonable, and may by a warrant remand the accused if in custody:

PROVIDED that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

PROVIDED FURTHER that than when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

PROVIDED ALSO that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.

PROVIDED ALSO that-

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

(c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanation 1 - *If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this a reasonable cause for a remand.*

Explanation 2 - *The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused."*

20. On close reading of the aforesaid Section, it indicates that every inquiry or trial and the proceedings shall be continued on day-to-day basis until the witnesses in attendance have been examined and unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded. If the letter and spirit as contended by the learned Senior Counsel is taken into consideration, then the Sessions Cases which are going to be tried before the trial Court, if the said mandate of the law is not followed, it indicates that the accused who are there in the custody after having committed heinous offences have to be released on bail.

21. Taking into spirit and the intention of the Legislature, the intention of the Legislature is to see that the trial Courts have to expedite the trial and there should not be any pendency for long time. In that light,

right of the accused is also going to be protected, if any such false case has been filed. In that light the Court has to make an endeavour to see that the cases are to be finalized and adjudicated upon as far as possible within one year and if the same has not been concluded within a period of one year from the date of taking cognizance, then no right is going to be accrued to the accused. This issue also came up before this Court in the case of **Arvind Kumar Vs. State of Karnataka, by Rajajinagar Police Station in Criminal Petition No.3672/2020**, disposed of on **01.09.2020** and this Court has already taken the similar view. However, in order to elaborately make it more clear I have dealt with the aforesaid aspect further and come to the aforesaid conclusion.

22. Be that as it may, I am conscious of the fact that individual rights of the accused are undoubtedly important. But equally important is the societal interest

for bringing the offender to book and for the system to send the right signal or message to all in the society - be it the law-abiding citizen or potential offender. 'Human rights' are not only of the accused, but, extent apart, also of the victim, the symbolic member of the society as the potential victim and the society as a whole. In that light, I want to rely upon the decision of the Hon'ble Apex Court in the case of **Varinder Kumar Vs. State of H.P.**, reported in **(2020) 3 SCC 321**, wherein at paragraph-12 it has been observed as under:-

"12. Individual rights of the accused are undoubtedly important. But equally important is the societal for bringing the offender to book and for the system to send the right message to all in the society – be it the law-abiding citizen or the potential offender. "Human rights" are not only of the accused but, extent apart, also of the victim, the symbolic member of the society as the potential victim and the society as a whole."

23. In *catena* of decisions, Hon'ble Apex Court has dealt with, regarding personal liberty of the accused but the same yardstick cannot be made applicable to all cases. In the case on hand victim has clearly stated in her statement recorded under Sections 161 and 164 of Cr.P.C. the manner in which the petitioner-accused No.1 and other accused used to sexually assault the victims. Though the said crime is committed against an individual victim, in the ultimate eventuate, it is the society who is the victim. This issue came up before the Hon'ble Apex Court in the case of ***Neeru Yadav Vs. State of U.P. & Another***, reported in ***2016(15) SCC 422***, wherein at paragraph-13 it has been observed as under:-

13. We will be failing in our duty if we do not take note of the concept of liberty and its curtailment by law. It is an established fact that a crime though committed against an individual, in all cases it does not retain an individual character. It, on occasions and in certain offences, accentuates and causes harm

to the society. The victim may be an individual, but in the ultimate eventuate, it is the society which is the victim. A crime, as is understood, creates a dent in the law and order situation. In a civilized society, a crime disturbs orderliness. It affects the peaceful life of the society. An individual can enjoy his liberty which is definitely of paramount value but he cannot be a law unto himself. He cannot cause harm to others. He cannot be a nuisance to the collective. He cannot be a terror to the society; and that is why Edmund Burke, the great English thinker, almost two centuries and a decade back eloquently spoke thus:

"Men are qualified for civil liberty, in exact proportion to their disposition to put moral chains upon their own appetites; in proportion as their love to justice is above their rapacity; in proportion as their soundness and sobriety of understanding is above their vanity and presumption; in proportion as they are more disposed to listen to the counsel of the wise and good, in preference to the flattery of

knaves. Society cannot exist unless a controlling power upon will and appetite be placed somewhere; and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things, that men of intemperate minds cannot be free. Their passions forge their fetters."

24. Therefore, in the light of the facts of the case on hand and the decisions cited above, the Court while exercising the discretion must be very cautious while granting bail. Even the records indicate that the accused persons threatened the victims at an earlier point of time. Now the case has been registered and at this juncture if the petitioner-accused No.1 is released on bail, there is every likelihood of he tampering with the prosecution evidence and may also threaten the victims. It is well established proposition of law that if there is any threat or tampering with the prosecution evidence,

then the Court can reject the bail application. In that light, petitions are liable to be dismissed.

25. Though the learned Senior Counsel has relied upon the decision of the co-ordinate Bench in the case of ***Vinay Vs. State of Karnataka, rep. by Special PP, (supra)***, in the said decision, the words 'as far as possible" used in Section 35(2) of the POCSO Act have not been kept into view and Section 164(5A)(a) and (b) has not been taken into consideration while taking the decision. Taking into consideration the aforesaid factual matrix of the case, I am of the considered opinion that benefit of Section 35 of the POCSO Act, will not come to the aid of the petitioner-accused in this behalf.

26. At this juncture, it is brought to the notice of this Court that when already the co-ordinate Bench in the case of ***Vinay Vs. State of Karnataka, rep. by Special PP, (supra)*** and other two co-ordinate Benches have taken a different view and this Court is taking a different

view, then under such circumstances, the matter has to be referred to the Larger Bench to consider the aspect of laying down the law. In that light, I am of the considered opinion that the matter requires to be referred to the Larger Bench to consider the following issues:-

- i) *Whether the evidence which has been recorded under Section 164 of Cr.P.C. can be considered to be an evidence under Section 35 of the POCSO Act?*
- ii) *If the evidence of the child has not been recorded within a period of thirty days of taking cognizance of the offence, and if the Special Court does not complete the trial within a period of one year from the date of taking cognizance, whether accused is entitled to be released on bail holding that it is a default clause which gives a right to the accused?*

Registry is directed to place the matter before Hon'ble the Chief Justice for obtaining necessary orders to refer the same before the Larger Bench to decide on the above questions.

In the light of the discussion held by me above, the petitioner-accused No.1 has not made out any good grounds to release him on bail. Hence, petitions are liable to be dismissed and accordingly they are ***dismissed.***

However, in case the finding of the Larger Bench goes in favour of the petitioner-accused No.1, then under such circumstances, liberty is reserved to the petitioner-accused No.1 to revive his right.

Sd/-
JUDGE

*ns/- From page 1 to 11

*ck/-..... From page 12 to till end