



IN THE HIGH COURT OF KARNATAKA,

DHARWAD BENCH

DATED THIS THE 15TH DAY OF OCTOBER, 2024

PRESENT

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR. JUSTICE T. G. SHIVASHANKARE GOWDA

CRIMINAL APPEAL NO. 100532 OF 2021 (A)

BETWEEN:

STATE OF KARNATAKA
R/BY THE POLICE INSPECTOR
GUTTAL POLICE STATION, HAVERI DISTRICT,
THROUGH THE ADDL.
STATE PUBLIC PROSECUTOR
ADVOCATE GENERAL OFFICE,
HIGH COURT OF KARNATAKA
DHARWAD BENCH-580001.

...APPELLANT

(BY SRI. M.B. GUNDAWADE, ADDL. SPP.)

AND:

BASAPPA S/O. NAGAPPA TIMMENAHALLI
AGE. 53 YEARS, OCC. AGRICULTURE,
R/O. MACHAPUR,
TQ. AND DIST. HAVERI-581128

...RESPONDENT

(BY SRI. B.M. PATIL, ADVOCATE)

THIS CRIMINAL APPEAL IS FILED U/S. 378(1) AND (3) OF CR.P.C., PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 10.07.2020 PASSED BY THE I ADDL. DISTRICT AND SESSIONS JUDGE AND SPECIAL JUDGE, HAVERI IN SPL. SC/ST NO.19/2018 AND CONVICT THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE U/SEC. 323, 324, 354, 504 OF IPC AND UNDER SECTIONS 3(1)(r), 3(2)(va) OF SC AND ST (PA) AMENDMENT ACT 2014.

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



CORAM: THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR
AND
THE HON'BLE MR. JUSTICE T. G. SHIVASHANKARE GOWDA

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE T. G. SHIVASHANKARE GOWDA)

The State is before this Court challenging the acquittal judgment dated 10.07.2020 in Spl. SC/ST No.19/2018 on the file of 1st Addl. District and Sessions Judge AND Special Judge at Haveri in acquitting the accused for the offence punishable under Sections 323, 324, 354, 504 of Indian Penal Code, 1860 (for short, 'IPC') and under Section 3(1)(r), 3(2)(va) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Amendment Act, 2014 (for short, 'SC & ST Act, 2014').

2. The parties will be referred to as per their status before the Trial Court for the sake of convenience.

3. Brief facts of the case are, the accused is the owner of the land in Sy.No.95 measuring 3 acres 10 guntas situated at Boodagatti village of Haveri Taluk. The accused and the complainant entered into an agreement



to cultivate the said land on crop sharing basis equally. Since there was water facility through borewell, the complainant decided to grow mulberry crop to rear silkworms. In the year 2017, the accused sold three crops of mulberry but he did not give half share in the sale proceeds to the complainant. On 05.03.2018 at 11.30 a.m., the complainant Hanumantappa Shivaputrappa Talawar was in the land along with his wife PW-5 Laxmavva, the accused visited the said land. Interaction took place between the accused and the complainant with regard to non-payment of half of the sale proceeds realized by the sale of mulberry crop. The interaction went out of control, accused enraged against the complainant and picked up a quarrel, voluntarily assaulted the complainant with his hands, kicked him with legs and also assaulted with coconut frond on his head. When PW-5 tried to interfere and rescue her husband, her saree was pulled by the accused with an attempt to outrage her modesty. The accused abused the complainant and his wife in filthy language with an intention to insult them in



the name of their caste. The complainant after taking treatment at Government Hospital set the law into motion by filing complaint under Ex.P-1, FIR was registered as per Ex.P-2 by Guttal Police of Haveri District for the offences punishable under Sections 323, 324, 354, 504 of IPC and under Sections 3(1)(r), 3(2)(va) of SC & ST Act, 2014.

4. After the investigation, the charge sheet came to be filed against the accused. The accused did not plead guilty of the charged offences. During the trial, the prosecution examined 7 witnesses as PW-1 to PW-7, 11 documents came to be marked as per Exs.P-1 to P-11 and one material object as M.O.1.

5. After examining the accused, hearing both the parties and on appreciation of evidence, the Trial Court recorded the acquittal on the ground that the version of the prosecution witnesses cannot be believed. Though there is a Primary Health Center at Guttal village, the complainant did not go there but he went to the Government Hospital, Haveri. There was a delay in filing



the complainant as the incident took place on 05.03.2018, the complainant discharged from the hospital on 08.03.2018 and the complaint was filed on 10.03.2018. The complaint was prepared by the son-in-law of the complainant who is not an eyewitness to the incident. When the complainant was examined by the doctor, he complained of only headache and multiple nail scratches over the chest and face. The cross-examination of the Medical Officer brought out that the said injuries might occur due to self fall. The evidence of the complainant is contrary to the medical evidence and there is doubt in the evidence with reference to the occurrence of the incident. Since there is a civil dispute between the accused and one Basavaraj Dandin in O.S.No.125/2017, the complainant admitted that he has filed the complaint on the say of the said Basavaraj Dandin. The prosecution has failed to prove that the accused has abused the complainant taking caste name of him and his wife, insulted them in a public view and thereby recorded acquittal.



6. We have heard the arguments of Sri M.B. Gundawade, learned Addl. SPP and Sri B.M. Patil, learned counsel for respondent.

7. Learned Addl. SPP has contended that there was a crop sharing agreement between the accused and the complainant. This has been spoken to by the complainant and his wife. The accused since not shared half of the sale proceeds, the complainant questioned the same and the accused assaulted the complainant, abused in filthy language taking the name of his caste. The assault is proved by the medical evidence. The delay in filing the complainant is for the reason that the complainant was under hospitalization. The evidence of the prosecution explains the ingredients of charges. Instead of appreciating the evidence from this angle, the Trial Court has given reasons which are not forthcoming from the evidence and therefore, there is a case for interference with the impugned judgment.



8. *Per contra*, learned counsel for respondent has contended that the complaint was lodged after 5 days. The complainant was cultivating the land of the accused on the crop sharing basis. Only in respect of sharing usufructs, some exchange of words might have taken place and there was no incident as alleged. When the coconut frond is used as weapon of offence, there could have been injury on the head but wound certificate clearly indicates no such injury. There is no evidence from the complainant and his wife that accused has used his nails to scratch the chest and face of the complainant. Accused and one Basavaraj Dandin are litigating a suit in O.S.No.125/2017. At his instance, belated complaint is filed that too prepared by the son-in-law of the complainant who is not an eyewitness in order to extract money from the accused. There are no eyewitnesses to the incident and testimony of the complainant and his wife is not reliable and the medical evidence is not in support of the prosecution. Neither the complainant nor his wife uttered anything that the accused insulted them taking the



name of their caste. The Trial Court, after considering all relevant facts rightly came to the conclusion that the prosecution has failed to prove the charged offences and rightly recorded the acquittal.

9. We have perused the entire evidence. There is no dispute as to the accused as well as the complainant were cultivating the mulberry crop in the land belonging to the accused. The accused sold 3 mulberry crops, realized the money and he was bound to share the usufructs to the complainant. In respect of sharing of usufructs, difference arose between them which led to some altercation. The averments in the complaint go to show that the accused insulted him and his wife in the name of their caste. The evidence of both the husband and wife did not point out accused using the name of their caste for insulting them. The complainant alleged that accused has assaulted on his head by means of coconut frond, but wound certificate as also the medical evidence point out that no injury on the head except complaint of headache. The medical evidence



also points out that in the hospital the complainant did not disclose the name of the accused as assailant. The medical evidence did not stand in support of the version of the complainant and his wife. When the complainant and his wife themselves did not whisper regarding accused using their caste name and committing any insult and the medical evidence not supporting the version of the complainant, it is therefore difficult to simply believe whatever stated by the complainant and his wife that the accused used coconut frond to assault on the head of the complainant or outraged the modesty of his wife or insulted them taking the name of their caste.

10. Having regard to the dispute between the accused and complainant, the reason for the belated complaint is to recover the money due from accused. Hence, small verbal altercation is used as weapon of offence against the accused. As we re-appreciate the evidence, even if it is assumed that there was an altercation between the accused and complainant and his



wife, it took place in the land which was at an isolated place and it is not within the view of public. Hence, without there being any corroboration, the evidence placed by prosecution is not trustworthy and the Trial Court has rightly appreciated the entire case and it is justified in recording the order of acquittal.

11. In this view, we do not find any ground to interfere with the judgment of the Trial Court. The appeal is devoid of merits, in the result, the following:

ORDER

The appeal is dismissed.

**Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE**

**Sd/-
(T. G. SHIVASHANKARE GOWDA)
JUDGE**