

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF FEBRUARY, 2025

PRESENT

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

CRIMINAL APPEAL No.572/2019

C/W

CRIMINAL APPEAL No.372/2019

IN CRL.A No.572/2019

BETWEEN:

- 1 . SRI. SRIDHAR,
S/O GOVINDAPPA,
AGED ABOUT 29 YEARS,
RESIDENT OF BUDDIVANTHANAHALLI VILLAGE,
MANCHENAHALLI HOBLI,
GAURIBIDANUR TALUK,
CHIKKABALLAPUR DISTRICT-561211.
(APPELLANT IS IN CUSTODY).

...APPELLANT

(BY SRI HARISH H.V., ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA BY
MANCHENAHALLI POLICE STATION,
CHIKKABALLAPUR DISTRICT-561211,
HIGH COURT OF KARNATAKA,
BANGALORE-560 001.

REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT.

...RESPONDENT

(BY SRI VIJAYKUMAR MAJAGE, SPP - II)

THIS CRL.A. IS FILED UNDER SECTION 374(2) OF CR.P.C
BY THE ADVOCATE FOR THE APPELLANT/S PRAYING TO SET
ASIDE THE JUDGMENT AND ORDER DATED 15.02.2019 PASSED
BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
CHIKKABALLAPURA IN SPL.S.C.No.17/2015 - CONVICTING THE
APPELLANT/ACCUSED No.2 FOR THE OFFENCE P/U/S 326-A
R/W 34 OF IPC.

IN CRL.A No.372/2019

BETWEEN:

- 1 . SRI ANANTHA REDDY,
AGED ABOUT 37 YEARS,
RESIDENT OF BUDDIVANTHANAHALLI VILLAGE,
MANCHENAHALLI HOBLI,
GAURIBIDANUR TALUK,
CHIKKABALLAPURA DISTRICT-561211.
(APPELLANT IS IN CUSTODY)

...APPELLANT

(BY SRI HASHMATH PASHA, SENIOR COUSEL FOR
SRI NASIR ALI, ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA,
BY MANCHENAHALLI POLICE STATION,
CHIKKABALLAPURA DISTRICT-561211,

REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
BANGALORE-560001.

2. SMT. LAKSHMAMMA,
W/O GANGARAJA,
AGED ABOUT 40 YEARS,
R/AT HALEBUDDIVANT,
HANAHALLI VILLAGE AND POST,
MANCHENAHALLI HOBLI,
GOWRIBIDANUR TALUK,
CHICKBALLAPURA,
KARNATAKA-563114.

...RESPONDENTS

(BY SRI VIJAYKUMAR MAJAGE, SPP-II FOR R1;
SMT. JAYNA KOTHARI, SENIOR COUNSEL FOR
SRI NAVEEN CHANDRA V., ADVOCATE FOR R2)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION AND SENTENCE DATED 15.02.2019 PASSED BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, CHIKKABALLAPUR IN SPL.S.C.No.17/2015 - CONVICTING THE APPELLANT/ACCUSED No.1 FOR THE OFFENCE PUNISHABLE UNDER SECTION 326A READ WITH 34 OF IPC AND SECTIONS 3(1)(xi),3(2)(v) OF SC/ST (POA) ACT.

THESE CRIMINAL APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

These appeals are against the judgment and order of conviction dated 15.02.2019 in Spl.S.C.17/2015 passed by the I Additional District & Sessions Judge, Chikkaballapur, convicting the appellants for the offence punishable under Section 326-A r/w Section 34 of Indian Penal Code, 1860 ('IPC' for short) and sentencing them to undergo rigorous imprisonment for ten years with Rs.1,00,000/- fine and in default of payment of fine, to undergo further rigorous imprisonment for a period of six months.

2. The appellant in CrI.A.No.372/2019 is convicted for the offence punishable under Section 3(2)(v) of the SC/ST(POA) Act, 1989, and sentenced to imprisonment for life with Rs.10,000/- fine, in default of payment of fine, to undergo further simple imprisonment for two months and he is also convicted for the offence punishable under Section 3(1)(xi) of the SC/ST(POA) Act, 1989 and

sentenced to imprisonment for one year with Rs.5,000/- fine, in default of payment of fine, to undergo further simple imprisonment for one month.

3. CrI.A.No.372/2019 is by accused No.1 and CrI.A.No.572/2019 is by accused No.2.

4. The case of the prosecution is that on 24.11.2014, at about 6.00 A.M., P.W.1-Lakshamma was attacked with acid by accused No.1 & 2 near Maheshwari Petrol Bunk, Manchenahalli Village and caused burn injuries on her face, hands, arm and chest, thereby attempted to murder her. It is further alleged that the act was motivated by the victim's caste, as she belongs to Scheduled Caste. Accused No.1 & 2 were charged for offences punishable under Section 326, 307 r/w Section 34 Indian Penal Code, 1860 and under Section 3(1)(xi) & 3(2)(v) of SC/ST (POA) Act, 1989.

5. The trial Court convicted both the accused based on the evidence of P.W.1-victim and circumstantial evidence.

6. Heard Shri Hashmath Pasha, learned Senior Counsel and Shri Harish H.V., learned Counsel appearing for the appellants-accused, Shri Vijaykumar Majage, learned SPP-II appearing for respondent No.1-State and Smt.Jayna Kothari, learned Senior Counsel appearing for respondent No.2.

7. Shri Hashmath Pasha, learned Senior Counsel appearing for the appellant in CrI.A.No.372/2019 made the following submissions:

a) The charge sheet was filed and the charge was framed for an offence punishable under Section 326 of IPC, whereas conviction is made for an offence punishable under Section 326-A of IPC. The conviction without charge under Section 326-A of IPC is not justifiable.

b) The statement of P.W.1 was recorded on 24.11.2014. As per Ex.P1, P.W.1 was attacked with acid by two unknown persons who had covered their faces with cloth, whereas the names of the accused

are stated on 03.12.2014 in the further statement with a detailed history of financial transaction. The motive for the acid attack is stated to be a refusal to have a physical relationship with accused No.1.

c) The FIR is the first and best piece of evidence that records an acid attack by two unknown persons. There is no basis for naming the accused after nine days of the incident.

d) As per the further statement, a financial transaction exists between P.W.1 and accused No.1 over an insurance agency. Due to the financial dispute, the accused are falsely implicated in the case.

e) There are no eyewitnesses to the incident and circumstantial evidence relied on by the trial Court is not corroborative.

f) The acid attack on P.W.1 was not for the reason that P.W.1 belongs to a scheduled caste community.

Owing to insurance agency, P.W.1 had a dispute with many villagers regarding finance.

g) The identification of the accused is stated in the examination-in-chief of P.W.1, which is irreconcilable with the statement made during the investigation.

h) The evidence of P.W.2, the husband of P.W.1, naming the accused is contradictory. P.W.2 has borrowed money from accused No.1 and has not repaid. Due to the insistence on loan repayment by accused No.1, the accused is implicated.

i) P.W.3, the brother of P.W.1, has named accused in his evidence, on being told by P.W.1. Pending land dispute between the accused and P.W.1 is admitted. P.W.3 was examined after fifteen days of the incident.

j) It is submitted that the contradiction in the statement of P.W.1 regarding the identity of the accused is not explained.

8. Learned Senior Advocate in support of his submissions, relied on the following judgments:

- i) 2009(9)SCC 221, Malaikumar Ganguli Vs. Dr. Sukumar Mukherjee;*
- ii) AIR 1972 SC 102, Rameshwar Singh Vs. State of Jammu and Kashmir;*
- iii) AIR 1973 SC 2773, Kali Ram Vs. State of H.P; and*
- iv) AIR 1993 SC 1469, Bhimappa Jinnaappa Naganur vs. State of Karnataka.*

9. Shri Harish H.V., learned Counsel appearing for the appellant/accused No.2 in CrI.A.No.572/2019 made the following submissions:

- a) Accused No.2 is stated as the rider of a motorcycle. There are no eyewitnesses for the involvement of this accused in the crime.
- b) P.W.1 does not provide the vehicle number and description of the vehicle. The prosecution does not produce the registration certificate or documents to

connect this accused to the crime. P.W.1 has not identified the motorcycle and the clothes of the accused.

c) No independent witnesses have stated about involvement of this accused.

d) P.W.1 has not stated this accused's involvement in the crime or motive.

10. Shri Vijayakumar Majage, learned SPP-II appearing for respondent No.1-State in both the appeals made the following submissions.

a) P.W.1 the victim stated that the acid attack was by two unknown persons; later, after recovery from the turmoil, she identified the accused involved in the acid attack.

b) P.W.1 suffered 30% of burn injuries, which would be highly improbable to state all details in her first statement.

c) Ex.P14-recovery mahazar identifying the acid can, jug, burka and jerkin, with the assistance of the accused would corroborate the offence committed by the accused.

d) Evidence of P.W.30-Forensic expert establishes the presence of sulfuric acid on the clothes of P.W.1 and Jerkin, burka, jug, acid bottle, and shirt recovered from the accused.

e) P.W.18- doctor who examined the accused at the instance of the police on 06.12.2014 stated that the injury on the hand of accused No.1 was an acid injury.

11. Smt. Jayna Khotari, learned Senior Counsel appearing for respondent No.2 made submissions as under:

a) The acid attack on P.W.1-victim was about 6.00 A.M., and her first statement was recorded in the hospital at 7.00 A.M. when the victim was still recovering from acid attack shock. It is highly

improbable that an acid attack victim would recollect all minute details in that state of mind. The names of the accused in the further statement recorded on 03.12.2014 is not fatal to the prosecution.

b) Accused No.1 took advantage of P.W.1 as she belongs to scheduled caste community and was insisting on a physical relationship and the refusal of such a relationship led to the motive behind the acid attack with the intention to kill P.W.1.

c) The recovery of articles, and witnesses to the recovery mahazar have withstood the cross-examination.

d) P.W.1 had identified the accused due to her acquaintance while he insisted on a physical relationship.

12. In support of her submissions, the learned Senior Advocate relied on the following judgments:

- i) (2010) 10 SCC 259, Abdul Sayeed Vs. State of Madhya Pradesh ;*
- ii) (2003) 10 SCC 414, State of M.P. Vs. Mansingh and others;*
- iii) 2023 SCC OnLine SC 1396, Birbal Nath Vs. The State of Rajasthan and others; and*
- iv) 2013 SCC OnLine Del 4050, Naeem Khan Vs. State.*

13. In reply, Shri Hashmath Pasha, learned Senior Advocate would submit that there is no evidence to speak on the physical condition of P.W.1 to depose. As per P.W.20-doctor, P.W.1 was in a good state of mind and in a deposable state. The recovery of material objects should be according to the statement recorded, whereas no statement of the accused is recorded. For this proposition, he relied on Section 27 of the Indian Evidence Act, 1872.

14. We have considered the submissions of learned Counsel for the parties and perused the record.

15. The accused have been convicted under Section 326-A of IPC. The appellants have raised the contention that no specific charge under Section 326-A IPC was framed. However, upon examination of Charge No.2, it is evident that the wording of the charge satisfies the requisite ingredients of Section 326-A IPC. The charge explicitly states that the accused attacked P.W.1 with acid with the intent to cause grievous injuries. The mere omission to explicitly mention the section in the charge does not vitiate the conviction, as the substance of the charge adequately covers the legal requirements of the offence under Section 326-A IPC.

16. In *Abdul Sayeed* (supra), the Hon'ble Supreme Court observed that, as per the provisions of Section 464(1) of the Code of Criminal Procedure, 1973, a finding, sentence, or order passed by a court of competent jurisdiction shall not be rendered invalid solely on the ground that no charge was framed, or due to any error, omission, or irregularity in the charge, including misjoinder of charges. The Court further held that such irregularities would not

vitiate the proceedings unless in the opinion of court of appeal, confirmation or revision that such an omission has resulted in failure of justice. Consequently, the omission to mention the section in charge is not, in itself, fatal to the prosecution.

17. In the present case, the text of the charge clearly outlines the essential ingredients of Section 326-A of IPC. Moreover, the accused was afforded a fair trial, having been made fully aware of the offence for which he was being tried and was given a reasonable opportunity to present his defence. Therefore, the defect in the framing of charges has not caused any prejudice to the accused.

18. Further, Accused No.1, the appellant in Criminal Appeal No. 372/2019, stands convicted for the offence punishable under Section 3(1)(xi) and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

19. The trial Court has concluded that accused No.1, after failing to establish illicit relationship with P.W.1, conspired

with accused No. 2 to carry out acid attack with the common intention of causing harm, resulting in 30% burn injuries and knowing that P.W.1 belongs to scheduled caste. Consequently, the trial Court held that the offence was committed under Section 3(1)(xi) and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

20. However, upon evaluating the evidence on record, it is found that the necessary ingredients to attract the provisions of the SC/ST (POA) Act, 1989 have not been fulfilled. The evidence before the court would not substantiate the claim that the acid attack was committed specifically because P.W.1 belongs to scheduled caste. Section 3(1)(xi) of the SC/ST (POA) Act makes it an offence to assault or use force against a woman from a Scheduled Caste or Scheduled Tribe with the intent to dishonour or outrage her modesty. P.W.1 has admitted her visit along with accused No.1 to DC office at Chikkaballapur and other offices in connection with financial transaction. This shows the acquaintance and

leniency between each other. Given the lack of sufficient evidence to establish that the accused committed the offence with the required intent and required materials that are not forthcoming to constitute offence under Section 3(1)(xi), conviction under Section 3(1)(xi) and Section 3(2)(v) of the SC/ST (POA) Act, 1989, is not sustainable.

21. Insofar as the conviction for the offence under Section 326-A of the IPC is concerned, the conviction is based on the testimony of P.W.1, the victim, along with circumstantial evidence. In light of this, it is necessary to assess the evidence presented in the case.

22. The fact of acid attack on P.W.1-complainant, which resulted in grievous injuries, her hospitalization and treatment is not in dispute. However, the crucial issue to be determined by this Court is whether the acid attack was perpetrated by the accused.

23. P.W.1, in her statement recorded on 24.11.2014 as per Ex.P1, in the presence of P.W.20, the treating doctor,

stated that two unknown persons, whose faces were covered with cloth, attacked her with acid and she was unable to identify them. However, in the further statement recorded on 03.12.2014, P.W.1 clarified that she was working as an insurance agent with PACL Insurance Company and had procured insurance policies for 30 to 40 individuals in her village. She mentioned that accused No. 1 had offered to assist her in obtaining refund of the insurance money from the company and they had been in contact regarding this matter. She also mentioned that she had visited the D.C. office in Chikkaballapur on his two-wheeler. Additionally, P.W.1 stated that accused No.1 had complained to her husband, accusing her of having an illicit relationship with Chandrappa. According to P.W.1, accused No.1 had offered her financial assistance on the condition that she would engage in a physical relationship with him. Upon rejecting this proposal, P.W.1 expressed suspicion that accused No.1 may have been involved in the acid attack.

24. In her examination-in-chief, P.W.1 stated that both the accused are residents of her village. She mentioned that accused No. 1 was wearing a burka, while accused No.2 was wearing a jerkin and helmet. P.W.1 described that accused No. 2 was riding a motorcycle and the pillion rider (accused No.1) threw the liquid. P.W.1 further testified that she was able to identify the person wearing the burka from the side and identified accused No.2 through the reflection in a mirror.

25. In her cross-examination, P.W.1 admitted to a land dispute between her family and accused No.1. She confirmed that she has not named the accused in her first statement. It was also admitted that the first statement was made three days after the incident and the second statement was made twelve days later. P.W.1 has admitted that she was in a position to identify the location of the incident on the same day. P.W.20, the treating doctor, in whose presence the statement was recorded, testified that, according to P.W.1, the acid attack was carried out by two unknown persons. In his cross-

examination, P.W.20 stated that P.W.1 was in a good state of mind and conscious while making the statement, despite suffering 30% burn injuries. A comparative assessment of the evidence of P.W.1, P.W.20, and the statements Exs.P1 and P2 reveals contradictions.

26. The trial Court has placed considerable reliance on Ex.P2 for the identification of two unknown persons as accused Nos. 1 and 2. P.W.1 has explained that her first statement was not complete due to the suffering and turmoil she experienced as a result of the acid attack. However, upon thorough examination of her testimony during examination-in-chief, the credibility of this explanation is questionable, as it creates doubt regarding the consistency and reliability of her statement.

27. It is an undisputed fact that the vehicle's number plate was covered with cloth, accused No. 1 was wearing a burka, and accused No.2 was wearing a jerkin and helmet. P.W.1 further stated that she was able to identify accused No.1 from the side when he turned and recognized accused No.2 from the mirror of the vehicle. However, it

is difficult to believe that P.W.1 having suffered 30% acid burn injuries and being in a state of shock and stress, could have paid such minute attention to the details necessary for identifying the accused. On the other hand, if it is to be accepted that she was in a sufficiently conscious state of mind to notice these fine details, then the absence of any mention of the accused in her first statement raises significant doubts. Additionally, naming the accused twelve days after the incident further casts uncertainty on the credibility of her identification.

28. The identification of the accused is solely based on the statement of P.W.1. Ex.P2 does not provide any details on how P.W.1 was able to identify the accused, other than expressing doubt due to the alleged history between her and the accused. However, in her examination-in-chief, P.W.1 testified that she identified Accused No. 1, who was wearing a burka, from the side. It is highly improbable that a person wearing a burka, which covers the face, could be identified from the side, especially by someone who is suffering from burn injuries and under extreme

stress, within a fraction of a second. P.W.1 also stated that Accused No. 2, who was wearing a jerkin and helmet, could be identified from the mirror of the vehicle. The prosecution has produced photographs of the two-wheeler involved in the crime, but nothing is on record to indicate whether the two-wheeler had a mirror, or whether it would have been possible to identify a person wearing a helmet from such a mirror. The perusal of motorcycle photographs of motorcycle on record as per Exs.P3 to P6 reveals that the motor cycle has no mirrors. This is a crucial piece of evidence because P.W.1 is the sole eyewitness for the identification of accused Nos. 1 and 2.

29. The judgments of Hon'ble Supreme Court referred hereunder lays down the principles of recovery on the basis of accused's statement.

30. In *Birbal Nath* (supra), the Hon'ble Supreme Court held that minor discrepancies in the statement of an injured eyewitness should not automatically lead to disbelief of their testimony, particularly when the eyewitness is a crucial piece of evidence that cannot be

easily discarded by the Court. However, the Court also clarified that this principle is not universally applicable and cannot be applied as an absolute rule. There is no hard and fast rule for ignoring discrepancies. The decision to overlook or acknowledge such discrepancies is within the discretion of the court, which is responsible for evaluating the evidence.

31. Reliance is placed by Respondent No.2 on *Naeem Khan @ Guddu* of the Delhi High Court (supra) to support the proposition that the testimony of an injured witness cannot be discredited merely due to contradictions or discrepancies. However, as with the earlier case, there is no absolute rule in this regard. The extent of any discrepancy or variance in the victim's version must be assessed independently, considering all the evidence before the court. The statement of the victim requires a thorough evaluation in conjunction with the other evidence presented by both the prosecution and the defence.

32. In *Kaliram supra*, the Hon'ble Supreme Court held that statement made to a police officer in the course of investigation is inadmissible and cannot be used against such person. This principle needs no reiteration.

33. In *Bhimappa Jinnappa Naganur(supra)*, the Hon'ble Supreme Court has held as under:

"8. If we take the statement of PW 1 for its face value the deceased died within a couple of minutes of his coming out of the courtyard after finishing his midday meal. It is clear from the post-mortem report as well as the statement of the doctor PW 6 that the deceased could not have consumed his lunch at the time as stated by PW 1. In other words the incident must have been of a period much before the time as alleged by the prosecution. This was the main reason which persuaded the trial court to disbelieve the prosecution version in toto. Besides, we also notice that as to the disclosure statement which lead to the recovery of the axe (MO-9) the only witness examined is Ramu Mellappa, PW 13. He did not depose about being a witness to the disclosure statement which led to the recovery of axe. The only evidence regarding the disclosure is "come with me" and thereafter the accused proceeded towards Harugeri and stopped near the stream situate at a distance of about 2

kms. away and the accused took out the axe from inside the nallah (stream). In the absence of any disclosure statement the recovery of axe itself becomes meaningless. The trial court had rejected the evidence in relation to extrajudicial confession as unreliable."

34. As per the prosecution, acid container, jug, jerkin, burka, duppatta at M.Os.5, 7, 8, 9 and 12 were recovered based on the statement of the accused. It is the specific contention of Shri Hashmath Pasha, learned Senior Counsel that recovery based on accused's statement alone is admissible as evidence under Section 27 of the Indian Evidence Act, 1872. The perusal of the record and the judgment of the trial court would not indicate recording of any such statement which led to recovery. The trial Court though rightly referred to Section 27 of the Indian Evidence Act, no reference can be found to any statement recorded from accused No.1 leading to seizure.

35. Article Nos. 1, 3 to 12, and 14 were found to contain traces of sulphuric acid. The trial Court connected the presence of acid traces on the cloth and other material objects (Nos. 1 to 10, 12, 13, and 16), which were alleged

to have been used during the commission of the offence. However, the mere presence of acid traces on these items does not suffice to establish the accused's involvement in the crime, particularly in the absence of a reliable identification of the accused committing the offence. In light of the contradictions in the testimony of P.W.1 and the discrepancies between Exs.P1 and P2, it cannot be concluded that the accused have been identified as the perpetrators of the acid attack.

36. The evidence of P.W.29, the investigating officer, merely outlines the investigation conducted and the seizures made, but does not establish a direct link between the accused and the crime. P.W.18, the doctor who treated the accused, testified that she treated accused Nos.1 and 2 on 06.12.2014. She explained that the burn injury to accused No.1 could have been caused by either fire or acid and that the cause of injury was not specifically attributable to acid. It was further admitted that the injury was attributed to acid based solely on the information provided by accused No. 1. However this

admission cannot be used against the accused unless, corroborated by other evidence.

37. P.W.2, the husband of P.W.1 (the complainant), testified based on the information provided by P.W.1. Similarly, P.W.3, the brother of P.W.1, deposed based on the information shared by his sister. The testimony of P.W.4, a petty shop owner near the petrol bunk, holds limited material value. The witnesses to the spot mahazar and seizure deposed about the recovery; however, in the absence of any statement by the accused leading to the recovery and given that such recovery is inadmissible under Section 27 of the Indian Evidence Act, their evidence is not of significant relevance.

38. For the reasons outlined above, the order of conviction of accused Nos.1 and 2 for the offence punishable under Section 326-A read with Section 34 of the Indian Penal Code, 1860, is unsustainable and therefore, is to be set aside.

39. However, it is undisputed that the complainant, P.W.1, suffered injuries due to acid attack, as evidenced by the testimony of P.W.20, the doctor, and Ex.P23, the wound certificate. While the trial Court correctly recognized that P.W.1 sustained grievous injuries from the acid attack, it erred in failing to recommend the award of compensation. The evidence on record demonstrates that P.W.1 received medical treatment and incurred significant expenses. Additionally, given the 30% burn injuries, the need for further treatment cannot be disregarded. In light of these factors, this case warrants the recommendation for compensation. P.W.1, as the complainant/victim, is entitled to compensation in accordance with Section 357A(3) of the Cr.P.C. The victim is permitted to approach the District Legal Services Authority, Chikkaballapur, to seek adequate compensation. Upon filing of such an application, the District Legal Services Authority shall assess the prevailing circumstances, determine appropriate compensation, and make suitable recommendations.

40. In view of the above the following:

ORDER:

- i) Crl.A.No.372/2019 filed by accused No.1 and Crl.A.No.572/2019 filed by accused No.2 are *allowed*;
- ii) The judgment of conviction and order of sentence dated 15.02.2019 passed in Spl.S.C.No.17/2015 by the I Additional District and Sessions Judge, Chikkaballapur, is set-aside;
- iii) Accused Nos.1 & 2 are hereby acquitted of the charges leveled against them for the offences punishable under Section 326-A read with Section 34 of Indian Penal Code, 1860. The accused No.1 is acquitted for offence punishable under Section 3(1)(xi) and 3(2)(v) of SC/ST (POA) Act, 1989.
- iv) The Registry is directed to communicate this order to the concerned Jail Authorities and the Jail Authorities are hereby directed to release

the appellants/accused Nos.1 & 2 forthwith, if they are not required in any other cases.

- v) If the accused have deposited the fine amount before the trial Court, the same shall be refunded on proper identification.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

Yn