



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF MARCH, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MRS JUSTICE K.S. HEMALEKHA

CRIMINAL APPEAL NO. 583 OF 2017

C/W

CRIMINAL APPEAL NO. 1185 OF 2017

In Crl.A No. 583/2017

Between:

Lakshmidevi,
D/o Venkatnaika,
Aged about 29 years
R/at Janupanahalli Thand,
Oordigere Hobli,
Tumkur-572 168.

...Appellant

(By Sri M.Shashidhara, Advocate)

And:

1. Janakamma
W/o Hanumanthanaika,
Aged about 40 years
R/at Janupanahalli Thand,
Oordigere Hobli,
Tumkur-572 168.
2. Hanumantharayappa
S/o Late Siddaiah,
Aged about 59 years
R/at Janupanahalli Thand,

Digitally signed
by VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA



Oordigere Hobli,
Tumkur-572 168.

3. Narasimhanaika
S/o Choklanaika,
Aged about 40 years
R/at Janupanahalli Thand,
Oordigere Hobli,
Tumkur-572 168.
4. Rathnamma
W/o Narasimhanaika,
Aged about 38 years
R/at Janupanahalli Thand,
Oordigere Hobli,
Tumkur-572 168.
5. Sharadamma
W/o Ugranaika,
Aged about 33 years
R/at Janupanahalli Thand,
Oordigere Hobli,
Tumkur-572 168.
6. Bhagyamma
W/o Hanumantharayappa,
Aged about 30 years
R/at Janupanahalli Thand,
Oordigere Hobli,
Tumkur-572 168.
7. Naveen
W/o Ugranaika,
Aged about 18 years
R/at Janupanahalli Thand,
Oordigere Hobli,
Tumkur-572 168.
8. Ugranaika
S/o Couklanaika,
Aged about 40 years
R/at Janupanahalli Thand,



Oordigere Hobli,
Tumkur-572 168.

9. Kumar
S/o Maralaiah,
Aged about 45 years
R/at Janupanahalli Thand,
Oordigere Hobli,
Tumkur-572 168.
10. State of Karnataka
By Kyathsandra Police Station,
Represented by SPP
High Court Of Karnataka
Bengaluru-560 001.

...Respondents

(By Sri Bhojaraja, Advocate for R1 & R3 to R9;
vide order dated 30.08.2024, appeal against R2 stands Abated;
Smt. R.Soumya, HCGP for R10)

This Criminal Appeal is filed u/s. 372 Cr.P.C. praying to set aside the aforesaid judgment and order dated 04.02.2017 passed by the Principal Sessions Judge, Tumkur in S.C.No.145/2014 for the offence p/u/s 143, 147, 148, 323, 324, 341, 354, 307, 447, 504 r/w 149 of IPC and convict respondents 1 to 9.

IN CRL.A NO. 1185/2017

Between:

State of Karnataka
By Kyatasandra Police,
Rep. by State Public Prosecutor,
High Court Building,
Bengaluru-560 001.

...Appellant

(By Smt. R.Soumya, HCGP)



And:

1. Janakamma
W/o Hanumanthanaika,
Aged about 43 years
Occ: Labourer.
2. Hanumantharayappa
S/o Late Siddaiah,
Aged about 62 years
Occ: Labourer.
3. Narasimhanaika
S/o Choklanaika,
Aged about 43 years
Occ: Teacher.
4. Rathnamma
W/o Narasimhanaika,
Aged about 41 years
Occ: Housewife
5. Sharadamma
W/o Ugranaika,
Aged about 36 years
Occ: Housewife
6. Bhagyamma
W/o Hanumantharayappa,
Aged about 33 years
Occ: Employee in Private Firm.
7. Naveen
S/o Ugranaika,
Aged about 21 years
Occ: Student.
8. Ugranaika
S/o Couklanaika,
Aged about 43 years
Occ: Labourer



9. Kumar
S/o Maralaiah,
Aged about 48 years
Occ: Contractor

All are R/at Janupanahalli Thanda,
Oordigere Hobli, Tumakuru.

...Respondents

(By Sri Bhojaraja, Advocate for R1 & R3 to R9;
vide order dated 30.08.2024, appeal against R2
stands abated)

This Criminal Appeal is filed u/s.378(1)&(3) Cr.P.C.
praying to grant leave to appeal against the judgment and
order of acquittal dated 04.02.2017 passed in
S.C.No.145/2014 by the Principal Sessions Judge,
Tumakuru thereby acquitting the accused/respondents for
the offences p/u/s 143, 147, 148, 323, 324, 341, 354, 307,
447 and 504 r/w/s 149 of IPC.

These Criminal Appeals, coming on for hearing, this day,
judgment was delivered therein as under:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MRS JUSTICE K.S. HEMALEKHA



ORAL JUDGMENT

(PER: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR)

These two appeals are disposed of by common judgment. Crl.A.No.583/2017 is filed by the defacto complainant and Crl.A.No.1185/2017 is filed by the State. Both the appeals are directed towards the acquittal judgment dated 04.02.2017 in S.C.No.145/2014 on the file of the Principal District and Sessions Judge, Tumakuru. The accused faced trial for the offences punishable under Sections 143, 147, 148, 447, 341, 307, 354, 323 and 504 read with Section 149 of IPC in connection with the incident said to have taken place at 6.30am on 25.08.2012.

2. The prosecution case is that:

When PW5 was ploughing his 1 acre 24 guntas of land in Sy.No.6 of Janupanahalli village, Oordigere Hobli, Tumakuru Taluk, the accused went to that place claiming that the land belonged



to them and altercated with PW5. When the accused resorted to assault PW5, his daughter PW1 Lakshmidevi interfered for pacification of the incident and at that time she too was assaulted. In the said altercation PW2 was also injured. This resulted in FIR being registered in Crime No.273/2012. Investigation resulted in all the accused being charge sheeted for the above offences.

3. It is not necessary for us to assess the evidence and examine the findings of the trial court for the reason that a counter complaint was also registered against PW5 and others in Crime No.274/2012 with the same police station in connection with the same incident. The Sessions Court has observed that the counter case ought to have been committed to the Sessions Court for being tried along with the present case and failure



to commit the same to the Sessions Court vitiated the trial.

4. We have heard Sri M.Shashidhara, learned counsel for the appellant, Sri Bhojaraja, learned counsel for respondents/accused Nos.1 and 3 to 9 and Smt. R.Soumya, learned High Court Government Pleader for respondent No.10/State.

5. Though Smt. Soumya R, learned High Court Government Pleader takes us to the entire evidence of the injured witnesses, she too does not dispute a counter complaint being registered against PW5 and others in relation to same incident.

6. In view of the judgment of this court in the case of ***State of Karnataka, by Circle Inspector of Police Versus Hosakeri Ningappa and Another***¹ whenever there are two cases emanating from the same incident, it is necessary

¹ ILR 2012 KAR 509



that they must be tried in the same court to avoid conflicting judgments. This requirement is to find out the aggressor in the altercation to take a proper decision. The Sessions Court could have directed the learned Magistrate to commit the counter case to Sessions Court once it came to its notice. But it was also not done. It is brought to our notice that the counter case is still pending before the Magistrate. In this view of the matter, we are of the opinion that to take a proper decision, it is necessary that these two cases must be tried in one court i.e., Sessions Court at Tumakuru. Therefore without expressing anything on merits of the case, we think it proper to set-aside the judgment and remand the same to the trial court for trial of two by the same court. It is made clear that it is not necessary to hold a *denovo* trial in the present case and after committal of the counter case by the Magistrate,



evidence of the witnesses may be recorded in that case. Now the following:

ORDER

Both the appeals are allowed.

Judgment of acquittal dated 04.02.2017, passed in S.C.No.145/2014 by the Principal District and Sessions Judge, Tumakuru is set-aside.

The case is remanded to the Sessions Court, Tumakuru, which shall direct the learned Magistrate concerned to transmit the records in C.C.No.2491/2013 (Kyathsandra Police Station V. Venkata Naik and others) to it for trial of two cases together.

*Since it is brought to our notice that the counter case is posted to 09.04.2025, the accused persons in both the cases shall appear before the Sessions Court, Tumakuru on **09.04.2025**, by which time*



*the Sessions Court, Tumakuru shall secure
the records in the counter case.*

*Transmit the records of this case
along with a copy of this judgment
forthwith to the Session Court. Tumakuru.*

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

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

KMV
List No.: 1 Sl No.: 7