



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MRS JUSTICE K.S. HEMALEKHA

CRIMINAL APPEAL NO.823 OF 2018

BETWEEN:

STATE OF KARNATAKA
BY MAHADEVAPURA POLICE STATION,
BENGLAURU,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BENGALURU-1. ... APPELLANT

(BY SRI RANGASWAMY R., HCGP)

AND:

RABEENDRA KUMAR MISHRA @ R.K. MISHRA
S/O. S.N. MISHRA,
AGE 53 YEARS,
NO.272, WRITERS SAFEGUARD BUILDING,
NEAR OM FARM CIRCLE,
WHITE FIELD, BENGALURU - 66. ... RESPONDENT

(BY SRI R.V. SHIVANANDA REDDY, ADVOCATE)

THIS CRL.A. IS FILED UNDER SECTION 378(1) AND (3)
CR.P.C. PRAYING TO GRANT LEAVE TO FILE AN APPEAL AGAINST
THE JUDGMENT AND ORDER OF ACQUITTAL DATED 23.10.2017
PASSED BY THE COURT OF LXI ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE, BENGALURU IN S.C.NO.1577/2011, ACQUITTING
THE ACCUSED FOR THE OFFENCE P/U/S 307 OF IPC AND SECTION
30 OF INDIAN ARMS ACT AND ETC.

Digitally signed by
MAHALAKSHMI B M
Location: HIGH
COURT OF
KARNATAKA



Date on which the appeal was reserved for Judgment	10.03.2025
Date on which the Judgment was pronounced	21.04.2025

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED,
COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS
DELIVERED THEREIN AS UNDER:

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

CAV JUDGMENT

(PER: HON'BLE MRS JUSTICE K.S. HEMALEKHA)

Against the judgment acquitting the accused for the offence punishable under Section 307 of Indian Penal Code read with Section 30 of the Indian Arms Act dated 23.10.2017 on the file of LXI Additional Civil City Civil and Sessions Judge, Bengaluru (CCH-62) ('Sessions Court' for short), the State is before this Court in this appeal.

2. PW.1, the first informant runs a shop called Mahalakshmi Newspaper and Xerox Centre for 13 years. On 10.08.2011, he opened his shop in the morning at 5.00 a.m. Around 10.00 to 10.10 a.m., a vehicle from a company called Writer Safeguard, driven by R.K. Mishra-



accused arrived at the shop. Accused asked for Rajasthan newspaper priced at Rs.3.50. When asked for change, PW.1 offered chocolate instead of the 50 paisa he requested. Accused got angry, abused PW.1 and pointed a double barrel gun at his chest. When PW.1 pushed the gun away, it fired, grazing his neck and hitting several others nearby. The bullet struck PW.2-Nataraj-pan shop owner on his right thigh, PW.3-Niranjan running a tea stall sustained injury on his right hand and Sanjeev a stranger sustained injuries on left leg. The Hoysala Police, who were nearby, took the injured to the Hospital, and PW.1 filed complaint. The case was registered under Section 307 of IPC along with Section 30 of Indian Arms Act.

3. The Sessions Court acquitted the accused, stating that the testimonies of the witnesses, particularly of PWs.1 to 4, 6, 7 and 17, were contradictory and unreliable. The court found the wound certificate inconsistent with the injuries claimed. It was also observed that misfire suggested was not with intent to harm, and



the evidence did not show that the accused intended to commit the offence. Ultimately, the prosecution failed to prove the accused's guilt beyond a reasonable doubt.

4. We have heard learned counsel for both parties and perused the material on record.

5. Learned HCGP for the State argues that when testimony of PW.1 is examined, it clearly shows the elements required to charge the accused under Section 307 of IPC and Section 30 of the Indian Arms Act. The accused's action, including pointing the gun at PW.1's chest, and resulting injuries to PW.1, PW.2-Nataraj, PW.3-Niranjan and Sanjeev, fulfilled the criteria of criminal offence. It is submitted that the cross-examination of the witnesses did not provide any significant reason to doubt their testimonies. The victim and the eye witnesses gave consistent and reliable evidence, proving the accused's guilt beyond reasonable doubt. Therefore, the Sessions Court should not have disbelieved their evidence. Learned HCGP further argues that the testimony of PW.1 is



supported by the eyewitnesses-PWs.2 and 3, who were also injured, clearly proves that the accused committed the alleged offence. The Sessions Court made an error by not considering the consistent evidence of PWs.1, 2 and 3, which is further backed by scientific evidence from PW.4, who reported on the double barrel gun and cartridges. Additionally, the testimonies of PWs.5 and 6, who arrived at the scene after hearing the gun shot, also corroborate the eyewitnesses accounts. The Sessions Court's dismissal of this credible evidence led to the wrongful acquittal of the accused.

6. Learned counsel representing the accused argues that the evidence presented by PW.1 is unreliable and inconsistent with the prosecution's case. The complaint claims that the accused was in possession of the gun, PWs.1 to 3 gave different versions of how the accused obtained the gun. PWs.2 and 3 also provide conflicting statements, leading to contradiction and omission in the evidence. Learned counsel asserts that the



Sessions Court after reviewing all the evidence, rightly acquitted the accused and warrants no interference by this Court.

7. We have given our anxious consideration to the contentions urged by the learned counsel for the parties and perused the material on record.

8. The complaint filed by PW.1 states that the accused came to his shop to buy a newspaper and became angry when he was asked to take a chocolate instead of 50 paisa change. The accused then took out a gun, pointed it at PW.1, and attempted to kill him. When PW.1 pushed the gun away, the bullet grazed his neck and struck Nataraj who was in the nearby shop, Niranjan who was drinking tea and Sanjeev who was walking on the road. While PW.1 testified that after the argument over the change, the accused went to his vehicle, retrieved the gun, and pointed it at PW.1. When questioned, the accused fired injuring several people. In the cross-examination, PW.1's testimony had contradictions. PW.1's



statement about when he gave the complaint before or after going to the hospital contradicts his initial evidence, creating confusion regarding the timeline of events.

9. The evidence provided by PW.1 is completely contradictory to the complaint he lodged. During cross-examination, numerous inconsistencies are brought out, showing discrepancies between PW.1's testimony and the details in the complaint.

10. According to PW.2's evidence, the accused arrived at the shop and got into an argument with PW.1 for 50 paisa change. Instead of returning the change, PW.1 offered chocolate. This led the accused to use abusive language towards PW.1 and went to his vehicle. Where he loaded the gun. PW.2 warned PW.1 that accused might shoot him. When the accused fired, the bullet grazed PW.1's neck. PW.2, who was standing near PW.1, tried to help push the gun downward. In the commotion, the accused also injured Nataraj on the right leg, Niranjan on the hand and Sanjeev on the right leg.



11. PW.3, another eyewitness and injured, testified that the accused went to his car, retrieved the gun and shot at PW.1. When PW.2 tried to resist, the accused fired again, hitting PW.2 in the leg and thigh, and small pellets injured on his right hand. When the evidence of PWs.1, 2 and 3 and the complaint are considered together, there are significant contradictions and inconsistencies about the sequence and details of how the incident occurred.

12. PW.8, the doctor who examined PW.3-Niranjan, confirmed that the injuries are simple in nature as noted in Ex.P5. PW.9, the doctor who examined PW.1, found 1 x 1 cms injury on his right side neck but no fractures or radio opaque foreign body. The injury deemed was simple in nature as per Ex.P3. Exs.P3 to 5 indicate that injuries are simple in nature.

13. The accused, a security guard with a valid gun licence-Ex.P17 had not violated any law for possessing the gun. The evidence of PWs.1 to 3 suggest that the accused



did not bring the gun to the shop to purchase the newspaper, and charge of attempt to murder under Section 307 of IPC is not substantiated. The prosecution has not proved that the accused misused the gun with the intent to kill. The testimonies of PWs.1 to 3 are contradictory and fail to inspire confidence, and there is insufficient circumstantial evidence to challenge the Sessions Court's decision to acquit the accused. The Appellate Court in an appeal against the acquittal has the power to re-examine the evidence and legal points involved in the case. However, the Court cannot re-value the facts or reassess the credibility of the witness unless there is a clear error in the judgment or misappreciation of evidence by the Trial Court. The Appellate Court can overturn an acquittal only if it finds the trial Court's decision was unreasonable or that the judgment was flawed because it fails to establish the guilt of the accused beyond reasonable doubt. There is no strong ground made out to interfere with the Sessions



Court's order of acquittal. Therefore the acquittal of the accused is justified and this Court pass the following:

ORDER

The Criminal appeal is hereby ***dismissed.***

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

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

MBM
List No.: 1 SI No.: 2