



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH 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.539 OF 2018

BETWEEN:

THE STATE OF KARNATAKA
THROUGH ARASIKERE POLICE STATION,
REPT. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-01.

... APPELLANT

(BY SRI RANGASWAMY R., HCGP)

AND:

1. SIDDAPA S/O GURAPPA,
AGED ABOUT 34 YEARS,
2. CHANDRAPPA S/O GURAPPA,
AGED ABOUT 43 YEARS,
3. PARAMESHA S/O GURAPPA,
AGED ABOUT 38 YEARS,
4. GURAPPA S/O HANUMANTAPPA,
AGED ABOUT 63 YEARS,

ALL ARE RESIDENTS OF
R/O AREBASAPURA VILLAGE,
HARAPANAHALLI TALUK-583131.

... RESPONDENTS

(BY SRI S.G. RAJENDRA REDDY, ADVOCATE FOR R-1 & R-2;
V/O. DATED 24/04/2024, R-3 & R-4 DEAD)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND
(3) CR.P.C. PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE
JUDGMENT AND ORDER DATED 06.10.2017 PASSED BY THE II
ADDITIONAL DISTRICT AND SESSIONS JUDGE & SPECIAL JUDGE,

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



DAVANAGERE IN S.C.NO.174/2015 ACQUITTING THE
ACCUSED/RESPONDENT FOR THE OFFENCES P/U/S 341, 506, 504,
323, 324, 302 R/W SECTION 34 OF IPC.

Date on which the appeal was reserved for Judgment	10.03.2025
Date on which the Judgment was pronounced	29.04.2025

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 of acquittal dated 06.10.2017 in
SC No.174/2015 on the file of the II Additional District and
Sessions Judge and Special Judge at Davangere ("Session
Court" for short), the State is before this Court in this
appeal.

2. The case of the prosecution is that there was a
dispute between PW.1 and the accused regarding drainage
situated in front of the house of PW.1. On 29.06.2015 at
around 6:45 a.m., when PW.3 was washing his face near the
drainage, accused No.1 verbally abused him. Accused Nos.2



to 4 supported accused No.1 at that time. On hearing the commotion, Manjunatha (deceased) and PW.1 went near the place of dispute. The accused abused and assaulted them. Manjunatha fell down on the ground due to injuries inflicted on him. The deceased suffered grievous head injuries and was admitted to the CG hospital. Later on, he was shifted to SSI Hospital. Complaint was lodged against accused Nos.1 to 4 on 29.06.2015 at 8:30 p.m., the deceased Manjunath succumbed to the injuries on 01.07.2015, the accused were charged for the offences punishable under Sections 341, 506, 504, 323, 324 and 302 read with Section 34 of IPC.

3. The prosecution in order to prove their case, in all examined 18 witnesses as PW.1 to PW.18, marked documents at Exs.P1 to P32 and MO1. The accused marked documents at Exs.D1 and D2.

4. The Sessions Court observed that there were many lapses, contradictions, omissions and improvements in the evidence of the material witnesses, i.e., PW.1, PW.3 and PW.6 to PW.9. The medical document from CG hospital,



where according to the witnesses, the deceased was initially examined for a vital head injury was not produced. There are no details of the deceased being admitted at CG hospital. The evidence of the doctors-PW.12 and PW.15 are contradictory, the medical report indicates injuries on the toes of the deceased, while the complaint and the testimonies of witnesses are silent about the injuries sustained by the deceased on the toes. No independent witnesses have been examined from the locality, whose presence would be natural, non-examination is fatal to the case of the prosecution.

5. We have heard Sri Rangaswamy .R, learned High Court Government Pleader for State and Sri S.G. Rajendra Reddy, learned counsel for respondents and perused the material on record.

6. Learned counsel for the State argues that PW.1 PW.3 and PW.6 are injured eye witnesses and it is well-settled law that the testimony of the injured witnesses carries great weight unless convincingly rebutted. The



Sessions Court could not have made much of non-examination of other eyewitnesses, particularly when the case rests on the testimony of injured eye witnesses supported by the medical evidence. The testimony of PW.12-doctor, who initially examined the deceased, clearly indicates that there were wounds on the vital portion of the deceased's head and injuries to his toes which were suggestive that Manjunath's death was homicidal. The testimony of PW.1 is corroborated by other material witnesses PW.3, PW.6 and PW.9. PW.1, PW.3 and PW.6 all suffered visible injuries, which were corroborated by medical evidence at Exs. P14, 15 and 16. Even if there are minor discrepancies, inconsistency in the narration of events by the witnesses, the consistent medical findings and oral evidence from injured witnesses strongly support the prosecution's case.

7. *Per contra*, the counsel appearing for the respondents-accused vehemently argued that the injuries sustained by the deceased do not corroborate the statements in the complaint or PW.1's testimony. The complaint-Ex.P1 alleges that the incident arose from a



dispute over a drainage in front of PW.1's house. However, during cross-examination, PW.1 clearly admits that there is no drainage in front of his house, and that it is actually located in front of the accused's house. The version of PW.1 contains inconsistencies and contradictions, including the motive, the nature and sequence of assault. PW.1's testimony, if looked into alone, is not sufficient to convict the accused. The witnesses examined by the prosecution are self interested witnesses and no neutral eyewitnesses support the version of the prosecution. All the circumstances are not complete and do not point to the guilt of the accused and therefore, the Sessions Court held that the accused was entitled for the benefit of doubt and that it does not meet the standard of proof required for a conviction.

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

9. The complaint describes that in the village, the local Panchayat constructed a drain in front of PW.1's house.



The dispute with the accused was over drainage in front of their house. On 29.06.2015 at around 6:45 a.m. Ajjayya (PW.3) was washing his face in front of his house. Accused No.1 verbally abused him (PW.3), joined by accused Nos.2 to 4. PW.1 and the deceased went to intervene. The accused continued abusing them and physically attacked PW.3, hitting him with hands and legs. Deceased was struck on the head with a stick (Kanige), causing him to bleed and fall. Hanumantappa, their uncle, tried to intervene but he was also injured. Rajshekhar, Halesha and M.G. Prakash arrived, stopped the fight and took the injured to the hospital.

10. The prosecution's case was premised on a dispute over a drainage in front of PW.1's house. However, PW.1 during his cross-examination categorically admitted that no such drainage existed in front of his house and that it was, in fact, situated in front of the accused's house. This is a material contradiction, not a minor discrepancy and it directly affects the truthfulness of the origin of the occurrence. The evidence of PW.1 is that when the incident occurred, there were around 30 to 40 people who gathered.



The evidence of PW.1 is also to the effect that the deceased after being hit on his head with the stick (kanige), he was bleeding and he fell on the ground. When the deceased fell on the ground, he states that nobody went forward to help the deceased nor did he react immediately. He deposed that Halesh (PW.7) took the deceased to CG hospital on his motorcycle and further that due to the bleeding suffered by the deceased, the clothes of PW.7 and Venkateshappa-the brother of PW.1, who took the deceased to CG Hospital, were also blood stained.

11. PW.3 an injured witness stated about the incident. In his cross-examination, he deposed that this incident was witnessed by 25 to 30 persons from the neighborhood. He deposed that he went to CG Hospital for treatment, and due to the injuries his clothes were blood stained. In his cross-examination, he stated that when he, PW.1, PW3 and the deceased were at CG Hospital, their statements were recorded by the police at the outpost.



12. PW.6 is another injured witness. He states about the quarrel that took place between the accused and PW.3. He admits in his cross-examination about 15 to 20 persons gathering at the time of the incident and further admits that when the accused were assaulting him, PW.1, PW.3, and the deceased, none of the assembled neighbors came to their rescue. He deposes that the injured and the deceased were taken to CG Hospital for treatment.

13. PW.7 and PW.8 are the witnesses who are stated to be present at the time of incident. They are the close friends of PW.1. The complaint and the testimony of witnesses is that accused No.1 assaulted the deceased on his head with a stick which caused bleeding and he fell down on the ground. Thereafter, accused No.3 using the same kanige assaulted PW.1 on his forehead and left leg. Further, accused No.2 with the kanige assaulted PW.3 on his head and right leg and PW.6 was assaulted on his back and head. Exs.P14, 15 and 16 are the wound certificates in respect of PW.1, PW.3 and PW.6.



14. At this stage it is relevant to consider the evidence of PW.12, the Medical Officer at CG Hospital who examined the deceased and found injuries. All the witnesses including PW.1 claimed that they were taken to CG Hospital immediately after the incident. Exs.P.14, 15 and 16 confirmed treatment, and admission of PWs.1, 3 and 6 at CG Hospital. When the deceased was admitted with a history of assault no document or MLC is produced to show that the deceased was admitted or treated at CG Hospital. PW.12 clearly states that the deceased was referred to SSI Hospital. If the testimony of PW.12 is perused, she states that the deceased was critically injured and she referred the deceased to higher treatment. If really so, it is highly unnatural and suspicious that no document exists showing that the deceased received any medical attention at CG Hospital. This casts serious doubt on the credibility of the eye witnesses version of events. Absence of initial treatment reports or MLC of the deceased from CG Hospital indicates a break in the medical chain of custody. It raises a doubt that possibly the injuries may have occurred elsewhere or that



narratives were constructed later. PW.12 being a neutral witness, contradicts the version of complainant. PW.12 further stated that the deceased was brought to CG Hospital with bleeding injuries on both great toes. She referred the deceased to higher medical Centre (SSI Hospital) due to the injuries. PW.12 does not mention about any treatment given to the deceased for the head injury. PW.15 is the doctor at SSI Hospital who conducted the post mortem, Ex.P.19. He confirmed that the deceased had lacerated wounds on great toes of both feet. Complaint, Ex.P1 and all the injured eye witnesses, PWs.1, 3 and 6 only mention that the deceased was hit on the head with a stick. He started bleeding and he fell on the ground. None of them mentioned any injuries to his feet or toes - not even as a result of falling or stepping on something. This leads to two major issues (1) inconsistency between the medical and the eye witnesses; (2) raises suspicion about the reliability of the prosecution's narrative - why would all the eye witnesses omit such visible injuries. The lack of any explanation or mention of these injuries casts a serious doubt on its credibility.



15. The testimony of the witnesses PWs.1, 3, 6, 7 and 8 all admit that there were several independent eye witnesses present during the alleged incident. However, no such independent witnesses were examined by the prosecution. Non-examination of independent witnesses, when such a person is available and only interested witnesses are examined, casts doubt on the prosecution's case. The case of the prosecution rests primarily on the testimony of PWs.1, 3, 6, 7 and 8 who are interested parties and relatives of PW.1 and the deceased. Their evidence is riddled with inconsistencies, and no independent or neutral testimony supports their versions. Even the medical evidence, while confirming the injuries does not conclusively establish who caused them and how. There being no credible independent corroboration, the Sessions Court making out false motive and finding material contradictions has rightly ordered acquittal of the accused. The Sessions Court rightly weighed the inconsistencies, contradictions and non-examination of the witnesses and the findings are reasonable and plausible. The conclusion reached by the



Sessions Court is not perverse nor manifestly illegal warranting any interference with the well reasoned acquittal order of the sessions court. For the reasons stated, this Court pass the following:

ORDER

The criminal appeal is hereby ***dismissed.***

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

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

YKL, MBM
List No.: 1 Sl No.: 2