



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 6<sup>TH</sup> 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. 303 OF 2018**

**Between:**

State of Karnataka  
By Akkur Police Station,  
Channapatna Taluk  
Ramanagara District  
Rep. by State Public Prosecutor,  
High Court Building,  
Bengaluru-560001.

...Appellant

(By Smt. R.Sowmya, HCGP)

**And:**

1. Tavaresha  
S/o Late Siddappagowda,  
Aged 36 years,
2. Lokesha  
S/o Dallali Gangappa,  
Aged 31 years,
3. Smt. Channamma  
W/o Nagalingaiah  
Aged 55 years,
4. Rajagopala  
S/o Siddalingegowda  
Aged 48 years,

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



5. Nagaraju  
S/o Puttappa,  
Aged 37 years,
6. Nagalingegowda  
S/o Siddalingegowda  
Aged 67 years

All are R/at Aralalusandra Village,  
Virupakshipura Hobli,  
Channapatna Taluk,  
Ramanagara District-571501.

...Respondents

(By Sri K.A.Chandrashekara, Advocate for R1 to R5;  
Appeal against R6 abated  
vide order dated 16.04.2024))

This Criminal Appeal is filed u/s.378(1) and (3) Cr.P.C praying to grant leave to appeal against the judgment and order dated 25.09.2017, passed in Crl.A.No.6/2011 on the file of the Court of I Additional District and Sessions Judge, Ramanagara, thereby setting aside the judgment and sentence dated 06.01.2011 passed by the Additional Civil Judge (Jr.Dn) and JMFC, Channapatna in C.C.No.164/2007 and acquitting the respondents/accused of the offences p/u/s 143, 147, 148, 324, 326 and 506 r/w section 149 of IPC.

This Criminal Appeal, 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)

This appeal is filed by the State challenging the judgment of the I Additional District and Sessions Judge, Ramanagara, in Criminal Appeal No. 6/2011 reversing the judgment of the Magistrate, Channapatna, who had convicted accused 1 to 6 for the offences punishable under Sections 143, 147, 148, 324, 326 and 506 read with Section 149 of IPC. Each of the accused was sentenced to simple imprisonment for six months and fine of Rs.1,000/- for the offence under Section 148 of IPC, accused 1 and 2 were each sentenced to simple imprisonment for three years and fine of Rs.8,000/- and accused 3 to 6 were each sentenced to simple imprisonment for one year and fine of Rs.2,000/- for the offence under Section 326 of IPC. And for the offence under Section 506 of IPC each of the accused 1 to 6 was sentenced to simple imprisonment for one year and fine of Rs.1,000/-.



2. The prosecution case is that on 06.01.2006 at about 8.00 a.m accused 1 to 6 formed unlawful assembly in the mulberry plantation belonging to PW1, assaulted him with a sickle and reaper patti (stick) and then caused hurt to him. PW1 was taken to hospital. FIR was registered on 10.03.2006. Investigation resulted in accused being charge sheeted.

3. Assessing the evidence of the witnesses examined by the prosecution, the Magistrate recorded conviction believing the testimonies of PWs1, 2 and 5. PW1 is the injured witness. PW2 is the wife of PW1 and PW5 is the doctor who examined PW1 after he was taken to the hospital. It is the finding of the Magistrate that the testimony of PW1 is fully believable in as much as he has given a clear account of the overt act of each of the accused. Referring to the evidence of PW2 it is held by the Magistrate that though she was not an eyewitness, her testimony supports the prosecution to the extent that when she went to the land where the incident had taken



place she came to know from PW1 about what had happened. PW5 is the doctor who treated PW1 and issued wound certificate as per Ex.P4 noticing the presence of eight injuries, the prominent among them being injuries 2, 3 and 7 i.e., abrasion on the right knee joint, swelling on the left knee joint and lacerated wound on the left knee joint which resulted in undisplaced fracture of patella bone. She stated that these three injuries were grievous in nature. Referring to the testimonies of these three witnesses, the Magistrate has recorded conviction opining that the testimonies of PW1, the injured, cannot be brushed aside as it finds corroboration from the medical evidence. Regarding the delay in registration of FIR it is stated that the reasons given by PW1 are believable. Since PW1 was taking treatment in the hospital it is quite natural that he lodged FIR after discharge from the hospital and the other explanation that though the doctor sent information to the police about the incident, they did not come and take the statement of the injured, is



believable. These are the main reasons given by the Magistrate for recording conviction.

4. The Sessions Court reversed the finding of the Magistrate giving the reason that PW1 might have given an account of the incident and the manner in which he was assaulted, but the delay in registering FIR has not been explained and whatever the reason that PW1 has given for the delay cannot be accepted. This makes the testimony of PW1 disbelievable. To disbelieve the testimony of PW2 the Sessions Court referred to her clear answer that she did not come to know the names of the assailants.

5. We have heard the arguments of Smt. Sowmya, learned HCGP and Sri K.A.Chandrashekara, learned counsel for respondents 1 to 5.

6. On perusing the testimonies of all the witnesses especially of the prominent witnesses, PWs1, 2 and 5, at the outset we may state that though PW1 has stated that all the 6 accused came and assaulted him when he was working in his mulberry plantation and thereby he



sustained injuries, it is to be stated that his evidence is difficult to be believed because of delay in registration of FIR. The incident occurred on 06.01.2006, FIR was registered on 10.03.2006. Ex.P1 is the statement of PW1 based on which FIR was registered. PW1 while giving evidence before the court stated that when he was taking treatment in the hospital, the doctors sent information to police, but the police did not come and take his statement. Thereafter he met the Superintendent of Police. This news was published in the newspaper and thereafter the police received complaint from him and registered FIR. If these were the reasons for the delay, that could have been mentioned in Ex.P1. All that is stated is that he was taking treatment in the hospital and after recovering he came over to the police station and gave a report of the incident. PW7 was the police officer who registered the FIR and his evidence does not disclose any reason for the delay occurred in registration of FIR. Being a police officer he should have enquired PW1 the reason for delay and recorded it in the FIR. Therefore it can be clearly stated



that the reasons that PW1 gave before the court when he adduced evidence could be an afterthought to overcome the lapses on his part. As rightly observed by the Sessions Court the reasons or the explanation given by PW1 cannot be believed per se.

7. It is true that PW1 has stated that when he had been to his land for cutting mulberry leaves, accused came and assaulted him. He stated that accused No.2 was having a sickle and accused No.1 was having a stick and they all assaulted him indiscriminately on account of which he lost consciousness. PW2 is the wife of PW1. Her testimony is that when she went to the land at about 10.00 am she saw her husband lying unconscious. In the examination-in-chief itself she stated that she did not come to know who actually assaulted her husband. Actually the prosecution wanted to prove from her that when she went to the land she came to know from her husband that all the accused assaulted her. As she did not state in the examination-in-chief like that, she was treated



hostile and in the cross-examination by the public prosecutor she admitted that she came to know about assault from her husband. The version of PW2 is difficult to be believed because if she actually came to know from her husband that the assault was by all the accused, she should have stated so, but her first version was totally contrary. In this view, the evidence of PW2 in the cross-examination by public prosecutor cannot be believed.

8. PW5 is the doctor. Her evidence shows that on 06.01.2006 at about 1.45 p.m PW1 was brought to the hospital and she noticed about eight injuries having been sustained by PW1. She noticed displaced fracture of patella bone of the left leg. Ex.P4 is the wound certificate. PW1 might have taken treatment, but merely based on the evidence of PW5 alone the case of the prosecution cannot be believed because PW2 has admitted in the cross-examination that her husband had been assaulted by one Nagaraju about three months prior to the incident. When this question was put to PW1, he denied it. PW2 admits



that her husband had been assaulted and for this reason evidence of PW5 about the injuries noticed by her does not assume significance. It is here the delay factor plays an important role. Looked from any angle, the evidence of PW1 is difficult to be believed in spite of support from medical evidence. In our opinion the Sessions Court has not committed any error in reversing the judgment of the Magistrate. Since the Appellate Court has also re-appreciated the evidence, there cannot be any interference with the finding of the Sessions Court as it appears that the appreciation of evidence made by the Sessions Court is not incorrect. Therefore the appeal is dismissed. Bail bonds executed by accused 1 to 6 are cancelled.

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

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

CKL/List No.: 1 Sl No.: 15