



CNR: KAHC010047232025

NC: 2026:KHC:42089-DB  
CRL.A No. 234 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10<sup>TH</sup> DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE SHRI JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.234 OF 2025

BETWEEN:

THE STATE BY  
ULLALA POLICE STATION  
MANGALURU, D.K.DISTRICT  
REP. BY THE STATE PUBLIC PROSECUTOR  
HIGH COURT BUILDING  
BENGALURU - 560001

...APPELLANT

Digitally signed  
by DEVIKA M  
Location: HIGH  
COURT OF  
KARNATAKA

(BY SRI THEJESH P, HCGP)

AND:

1. ABDUL SATTAR  
S/O MOHAMMED RAFEEQ  
AGED ABOUT 24 YEARS  
R/IN THE RENTED HOUSE  
OF SOJARA  
HAVING AMBASIDOR CAR  
BANDIKOTYA, ULLALA VILLAGE  
MANGALURU TALUK - 575020
2. MOHAMMED SAIF @ SAIF @ SATTAR  
S/O YUSUF  
AGED ABOUT 19 YEARS



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R/IN THE RENTED HOUSE OF  
COOT SHARIEF  
NEAR CEMENT SHOP OF RAVOOF  
MASTHIKATTE, ULLALA VILLAGE  
MANGALURU TALUK - 575 020

3. ISMAIL SUHAIL,  
S/O U M ASHRAF  
AGED 21 YEARS  
R/IN THE RENTED HOUSE  
OF KHADER  
BEHIND MUKKACHERI MASJID  
SUNDARI BHAG, ULLAL VILLAGE & POST  
MANGALURU TALUK - 575 020

...RESPONDENTS

(BY MRS. HALEEMA AMEN, ADVOCATE FOR R1;  
SRI LETHIF B, ADVOCATE FOR R2 & R3)

THIS CRL.A. IS FILED U/S.378(1) (3) OF CR.P.C PRAYING  
TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND  
ORDER OF ACQUITTAL DATED 10.01.2024 IN SPECIAL CASE  
NO.176/2021 PASSED BY THE LEARNED VI ADDL. DISTRICT  
AND SESSIONS JUDGE, D.K., MANGALURU AND ETC.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,  
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH  
AND  
HON'BLE SHRI JUSTICE B.PRAMOD



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**ORAL JUDGMENT**

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

This appeal is filed against the judgment dated 10.01.2024 passed in S.C.No.176/2021 for the offences punishable under Sections 341, 504, 323, 324, 307, 504, 506 read with Section 34 of IPC.

2. This matter is listed for admission. Heard the learned High Court Government Pleader appearing for the State and also the learned counsel appearing for respondent No.1 and respondent Nos.2 and 3.

3. The factual matrix of the case of the prosecution is that on 04.06.2021 at about 06.25 p.m. in front of the house of CW6-Richard Vegas, accused No.2 came along with accused Nos.1 and 3 in a bike bearing No.KA19-EY-3384 and wrongfully restrained CW1 and abused him in filthy language questioning that why he has to pay the amount for causing accident to the vehicle by his sister and gave a life threat stating that going to take away his life. The accused persons assaulted CW1 with their hands and pushed him on the ground. Accused No.1 with



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an intention to kill CW1 assaulted him on the right side of his head also on his lips with a stone, due to which CW1 sustained bleeding injuries, hence CW1 cried loudly and hearing the sound, CW2 to CW5 came to the spot and witnessing the same, accused Nos.1 to 3 left the place by giving life threat to CW1.

4. This incident took place on the backdrop of an accident which was taken place on 03.06.2021 at 09.00 a.m., when one Fathima Thasleema came in her vehicle bearing No.KA19-HB-0995 and dashed against the vehicle of CW1 bearing No.KA19-HB-9022 and caused damage to his vehicle. Hence, CW1 told her that he will lodge a complaint against her and for that, she requested CW1 to not to lodge the complaint and she will bear the expenses of the damage by talking with her family members and she took the mobile number of CW1. On the same day at about 09.20 p.m., CW1 received a call from accused No.2 and he asked him that did you dashed his sister's vehicle, for that, CW1 replied that your sister only dashed to his vehicle from back side and caused damage to his vehicle and accused No.2 disconnected the call saying that he will talk to him later. Again on 04.06.2021 at 06.10 p.m.,



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accused No.2 called CW1 over phone and asked to meet him and committed this offence.

5. Based on the complaint, the case was registered and police have investigated the matter and filed the charge-sheet. The accused did not plead guilty and claims the trial. Hence, prosecution mainly relies upon the evidence of PW1 to PW14 and also documents of Ex.P1 to P34A as well as material objects at MO1 to MO2(b). The accused did not choose to lead any evidence. However, he was subjected to 313 statement. The Trial Court having taken note of both oral and documentary evidence, particularly the evidence of witnesses PW2 to PW5 who have been cited as eyewitnesses, comes to the conclusion that PW3 to PW5 have not supported the case of prosecution. But PW2 who is the father of the victim had supported the case of the prosecution. But the Trial Court having appreciated the evidence comes to the conclusion that PW2 is not an eyewitness and injured witness is PW1. But there is no dispute with regard to the fact that there is a wound certificate which is marked before the Trial Court as Ex.P24. However, the Trial Court having taken note of the insertion made in the wound



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certificate which is marked as Ex.P24 in paragraph 48 comes to the conclusion that when PW1 took to the hospital, he was in conscious state of mind and he admitted that Sayed and others have inflicted injury with the knife, sticks, and rods. If that is true, why PW1 changed his version thereafter even he was in conscious state of mind. Though the doctor who treated PW1 has given wound certificate as per Ex.P24 stating that the injuries are simple in nature. The reason behind the history of assault given by PW1 is not forthcoming. It is also observed that oral testimony of PW1 is not corroborating with Ex.P24. The Trial Court while considering Ex.24 taken note of history of assault by Sayed and others using knife, sticks and rods and the word 'stone' was inserted and word 'stone' is written in Ex.24 in a different ink and the overwriting made in the said document is not explained either by PW10 or by the Investigating Officer in the case on hand.

6. The Trial Court also taken note of the fact that prosecution failed to explain the matter by giving cogent reason. In the case on hand, MO2-stone was recovered at the instance of PW2 who is said to have an eye witness to the



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alleged incident at Dharmanagara Road, but the said road and the alleged incident said to have taken place are not one and the same and it can be viewed from sketch at Ex.P11 that too in a public place. During the course of cross-examination, PW2 categorically admitted that Ex.P10 and P11 were prepared in the police station and also he has signed the said documents. PW2 further admitted that MO1 was taken by the police from the hospital and PW2 not specifically deposed that which accused assaulted PW1 with stone and hands. Hence, Trial Court comes to the conclusion that it creates a doubt in the mind of the Court, how far his evidence is reliable to the case of the prosecution. Hence, Trial Court comes to the conclusion that the evidence of PW2 is also not believable.

7. Having taken note of the evidence of PW1, who is the injured witness, Trial Court comes to the conclusion in paragraph 46 that though PW1 narrated with regard to how the incident was taken place and abused in a filthy language causing life threat and this incident was subsequent to the earlier incident of accident in the previous day and on the next day evening called CW1 by accused No.2 and alleged incident



was taken place with regard to the payment of damages to the vehicle is concerned. Having taken note of all these materials available on record i.e., both oral and documentary evidence available on record, the Trial Court comes to the conclusion in paragraph 51 that there is inconsistency in the testimonies of prosecution witnesses and documentary evidences which creates doubt about the very case of the prosecution. Hence, extended the benefit of doubt in favour of accused persons.

8. Even while admitting the appeal of the acquittal, the Court has to take note that in a case where two views are possible, then benefit of doubt goes in favour of the accused only. When such being the material available on record, we do not find any grounds to admit this appeal as against the acquittal when there is an inconsistency in the evidence of witnesses and also when the prosecution indulged in getting the document of wound certificate at Ex.P24 by inserting the word 'stone' when an allegation was made that accused assaulted with the stone but the injuries were simple in nature. No doubt, while invoking Section 307 of IPC, whether injury is simple or grievous in nature is immaterial. But Court has to



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take note of consistency in the evidence of prosecution witnesses. Hence, we do not find any grounds to admit this appeal when the prosecution fails to made out the case showing that the matter requires reconsideration or re-appreciation of evidence. Accordingly, the appeal is dismissed.

**Sd/-  
(H.P.SANDESH)  
JUDGE**

**Sd/-  
(B.PRAMOD)  
JUDGE**

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