



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO.1341 OF 2018 (A)

BETWEEN:

RAVI
AGED ABOUT 34 YEARS
S/O. HANUMANTHAIH
GUDDENAHALLI, KASABA HOBLI
TURUVEREKERE TALUK
TUMAKURU DISTRICT-572 101.

...APPELLANT

(BY SRI M. VINAYA KEERTHY, ADVOCATE)

AND:

1. KUMARA
AGED ABOUT 27 YEARS
S/O. GANGAIAH.
2. LENKAPPA
AGED ABOUT 55 YEARS
S/O. HANUMAIAH.
3. ASHOK
AGED ABOUT 31 YEARS
S/O. LENKAPPA.
4. SOMA @ SOMASHEKARAIH
AGED ABOUT 31 YEARS.

RESPONDENT NOS.1 TO 4 ARE
RESIDENT OF GUDDENAHALLI
KASABA HOBLI, TURUVEKERE TALUK
TUMAKURU DISTRICT-572 101.

Digitally
signed by
ANJALI M
Location:
High
Court of
Karnataka



5. STATE BY TURUVEKERE POLICE
REPRESENTED BY S.P.P.
HIGH COURT OF KARNATAKA
BENGALURU-560 001.

...RESPONDENTS

(BY SRI M. SHASHIDHARA, ADVOCATE, FOR R-1 TO R-4, AND
SRI RAHUL RAI K., H.C.G.P., FOR R-5)

* * *

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(3) OF THE CR.P.C. PRAYING TO SET ASIDE THE JUDGMENT OF ACQUITTAL DATED 22-3-2018 PASSED BY THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIPTUR, IN SESSIONS CASE NO.63 OF 2013, ACQUITTING THE RESPONDENTS/ACCUSED NOS.1 TO 4 OF THE OFFENCES PUNISHABLE UNDER SECTIONS 323, 307, 504 AND 341 READ WITH SECTION 34 OF IPC.

THIS CRIMINAL APPEAL IS COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

This is a victim's appeal preferred against the judgment of acquittal dated 22.03.2018 passed by the V Additional District and Sessions Judge, Tiptur, in SC No.63/2013, whereby the respondents/accused Nos.1 to 4 are acquitted of the offences punishable under Sections 323, 307, 504, 341 read with 34 of IPC.



2. We have heard learned counsel for the appellant, learned counsel for respondent Nos.1 to 4/accused Nos.1 to 4 and learned HCGP appearing for respondent No.5 State. Perused the evidence and material on record.

3. It is the case of prosecution that the complainant/injured is a resident of Guddenahalli, Harijan Colony, Kasaba Hobli, Turuvekere Taluk. There was a dispute between the complainant and accused in connection with installation of Ganesha Idol. On 06.11.2011 at about 06.00 p.m., the complainant along with his father Hanumanthaiah returned to their house after grazing the cattle. At that time, all the accused, on account of previous enmity, with an intention of committing his murder, came near his house, accused No.1 stabbed on his abdomen with a knife and other accused persons held him and also kicked and assaulted him with hands.



4. Ex.P3 is the complaint. It is stated in Ex.P3 that complainant's father Hanumanthaiah and one Mahalingaiah(PW.2) took the complainant to Turuvekere Government Hospital for treatment.

5. PW.3-Head Constable of Turuvekere Police Station has deposed in his evidence that on receiving a telephonic message from the hospital, at about 10.00 pm, he visited the hospital and recorded the statement of the injured in the presence of the Doctor and thereafter, he returned to police station and registered a case against the accused in Crime No.175/2011, for the offences punishable under Sections 323, 307, 504 read with 34 of IPC.

6. PW.10-ASI took over the investigation from PW.3 on 07.11.2011, he went to the spot and prepared the spot mahazar as per Ex.P5 and seized a knife-MO.2 and a blood stained full sleeve banian of the injured-MO.1. He took permission to send the articles to FSL. The investigation



was then taken over by PW12-PSI, who, on completion of investigation, filed the charge sheet.

7. Before the trial Court, the prosecution in all examined 13 witnesses and got marked 12 documents and MOs.1 and 2. The defence got marked Ex.D1- the portion of the statement in Ex.P5- spot-mahazar. The defence has however not led any evidence.

8. The learned Sessions Judge vide impugned judgment acquitted the accused of all the charged offences. Hence, this appeal by the complainant/victim.

9. Before proceeding further, we are reminded of the well-settled principle that in an appeal against an order of acquittal, an appellate Court can review the entire evidence and come to its own conclusion. However, the presumption of innocence of the accused could be strengthened by the judgment of acquittal passed by the trial Court, which had the advantage of observing the



demeanour of witnesses, whose evidence have been recorded in its presence.

10. It is also well settled that the Court of Appeal has a wide power of appreciation of evidence in an appeal against an order of acquittal, as in the case of an appeal against an order of conviction, subject to the rider that, the presumption of innocence with which the accused person starts in the trial continues even upto the appellate stage and that the appellate Court should attach due weight to the opinion of the trial Court, which recorded the order of acquittal.

11. In the instant case, the incident is alleged to have taken place on 06.11.2011 at about 06.00 p.m. near the house of the complainant/victim. In Ex.P3, it is alleged that there was some dispute between the accused and complainant in respect of installation of Ganesha idol and in this background, all the accused with an intention to commit murder, came near the house of the complainant



and accused No.1 stabbed him with a knife on his abdomen and caused bleeding injuries. Accused No.2- Lenkappa and accused No.3 Ashoka abused him in filthy language, accused No.4 Soma held him and all of them assaulted with hands and also kicked him. It is further stated in Ex.P3 that the complainant's father Hanumanthaiah(PW.8), Hucchamma (PW.9), Shankarappa(PW.1) pacified the quarrel and then the complainant's father and one Mahalingaiah(PW.2) shifted the complainant to Turuvekere Government Hospital.

12. A perusal of Ex.P3 goes to show that PW.1, PW.8 and PW.9 were present at the spot, when the incident took place and they are the eye witnesses. Further, PW.2 along with complainant's father (PW.8) shifted the complainant/injured to hospital.

13. The prosecution has got examined PW.6 and PW.13, the Medical Officers, to prove the injuries sustained by the complainant/PW.7. PW.6 was working as



a Medical Officer in Government Hospital in Turuvekere town. He has deposed that at 9.30 p.m. on 06.11.2011, the injured accompanied by his father visited the hospital reporting certain injuries said to have been caused on 06.11.2011 due to assault and he commenced treatment at 9.35 p.m. He noticed a stab wound of 2 inches x 2 cms in right hypochondrium about 3 inches below right coastal margin with omentum coming out of it. The patient was referred to Adichunchanagiri Medical College for further management. PW.6 has further stated that the injured was admitted in surgery A-Unit and undergone emergency exploratory laprotomy on 07.11.2011 and drainage of psoas abscess of right with appendicectomy on 29.11.2011. He has further stated that injured was finally diagnosed of penetrating injury on right abdomen and discharged on 12.12.2011.

14. PW.13, the Medical Officer at Adichunchanagiri Hospital has given evidence with regard to Ex.P9, the wound certificate issued from the said hospital. Based on



the same, he has stated that the injured was admitted as an inpatient in his hospital from 07.07.2011 to 12.12.2011. The injured was admitted in the hospital on 07.07.2011 in connection with a stab injury on the abdomen. He has spoken about the injuries and the treatment given to the injured. He has further stated that the injured had also sustained certain injuries on the cheek, lips, left hand and he issued Ex.P9. He has further stated that the injured has sustained one grievous injury and three simple injuries.

15. The victim/complainant has been examined as PW.7. In his deposition, he has stated that on 06.11.2011, at about 06.00 p.m., the accused came near his house and quarrelled with him. Earlier, there was a quarrel with regard to installation of Ganesha Idol. In this connection, three accused came near his house, accused No.1 demanded money and quarrelled and accused No.4-Soma and another accused Sanniah held him, accused Ashoka(accused No.3) and Lenkappa(accused No.2) held



and kicked him, accused No.1 stabbed him with a knife, due to which, he sustained bleeding injuries. Lenkappa(accused No.2) and Ashoka(accused No.3) abused him in filthy language. At that time, one Hucchamma (PW.9) and his father (PW.8) were present at the spot. He was taken to hospital by his father Hanumanthaiah and for higher treatment, he was shifted to Adichunchanagiri Hospital, wherein, he took treatment for about one and half months. He has further stated that when he was in Turuvekere Hospital, the police came and recorded his statement as per Ex.P3.

16. Before proceeding further, it is necessary to analyze the evidence of other eye witnesses projected by the prosecution. As per Ex.P3, the complainant's father Hanumanthaiah(PW.8), PW.1 and PW.9 pacified the quarrel and PW.2 and PW.8 shifted the injured to the hospital. In his evidence, PW.7 victim has not mentioned about the presence of PW.1 and PW.2, however, he has



stated that PW.9 Hucchamma and his father Hanumanthaiah(PW.8) shifted him to the hospital.

17. According to the prosecution, PW.1, PW.2 and PW.9 are the independent witnesses. PW.8 is complainant's father. PW.1, PW.2 and PW.9 have not supported the case of prosecution. They have denied the incident as alleged by the prosecution.

18. According to the defence, on the very same day i.e., on 06.11.2011, there was an incident, in which, PW.7 tried to outrage the modesty of sister of accused No.1 and in that connection, sister of accused No.1 had lodged a complaint at police station. In the cross examination, PW.7 has admitted that there was a complaint lodged against him at about 8.00 p.m. in respect of an incident, which took place on 06.11.2011. At one stage, though he denied registration of a case against him in Crime No.174/2011, the defence has got elicited from the Investigation Officer-PW.12 about the said case registered against PW.7, on the



ground that, he outraged the modesty of the sister of accused No.1. Even in the evidence of PW.8, it is elicited by the defence that there was a case registered against his son, i.e., PW.7/injured.

19. From the above, the defence has been able to show that prior to the incident in question, an incident had taken place on the very same day, wherein, the sister of accused No.1 lodged a complaint against the complainant in the present case and a case was registered against him. It is also the case of prosecution that there was quarrel between the complainant and accused in connection with installation of Ganesha Idol. In the background of admitted rivalry, we have to carefully analyse the evidence of PW.7, the injured in this case as well as the evidence of his father/PW8.

20. PW.7, the victim in this case, in his chief examination has not at all stated that when he was stabbed, the omentum protruding from the abdomen. He



has only stated that accused No.1 stabbed him on the right side of his abdomen, due to which, he sustained bleeding injuries. This is relevant because PW6-Doctor has admitted in the cross-examination that he has not mentioned about the age of the injury. He has stated that below right costal margin with vomentum coming out of it and the medical terminology defines vomentum is the layer covering the intestine. He has further stated that except infection, nothing happened, as noted by the Surgeon in Ex.P8. He has further stated in the chief-examination that he has mentioned that there was an appendicectomy surgery performed on 29.11.2011.

21. The learned Sessions Judge, while appreciating the evidence of PW7 and medical evidence, has taken into consideration that the Doctor has not mentioned the age of the injury and in Ex.P8, except mentioning about infection, there are no other injuries mentioned. Further, the Doctor has given evidence that the injured has not stated before him about the assault made by the accused.



Further, in Ex.P8, there is mention that there was appendicectomy surgery performed on 29.11.2011 and the same was admitted by the Doctor. Hence, the case of the prosecution that PW7 sustained injuries on account of any incident took place on 06.11.2011 at 6.00 p.m. appears to be doubtful.

22. Insofar as the evidence of PW8, father of the injured-PW7, is concerned, he has spoken about the incident and shifting the injured to the hospital. In his cross-examination, he has admitted that for the first time, in the Court, he has deposed about the accused stabbing the injured. He has further deposed that one of the accused assaulted the injured on the head with a brick. However, in the complaint, or in the deposition, PW7 has not stated about the accused having assaulted with the brick on his head. Even in the cross-examination, PW8 has admitted that earlier, he has not stated about the accused assaulting the injured on the head with the brick. Evidence



of PW8 is, therefore, does not inspire the confidence of the Court.

23. MO1-bloodstained clothes of the injured-PW7 and MO2-knife are recovered at the time of mahazar-Ex.P5. PWs.4 and 5, panch witnesses, to Ex.P5 have turned hostile. PW8 has testified to Ex.P5, wherein MOs.1 and 2 were seized. None of the witnesses have stated that, after committing the offence, accused threw the knife-MO2 at the spot. Recovery of knife is not at the instance of the accused. PW10-Assistant Sub-Inspector Police, who conducted spot mahazar, has clearly stated that MOs.1 and 2 were produced by PW.8.

24. The prosecution has relied on the FSL report-Ex.P11. PW11 is the Scientific Officer, who issued Ex.P11. Interestingly, he has deposed that on 15.05.2012 he received one sealed article sent by the Deputy Superintendent of Police, Kunigal, in connection with Crime No.70 of 2012. On examination of MO2-knife, he



has given opinion as per Ex.P11. Undisputedly, the case is registered in Crime No.175 of 2011, whereas PW11 has categorically stated that he received sealed article in respect of Crime No.70 of 2012. If we peruse the evidence of PW10, the spot mahazar was conducted on 07.11.2011, under which, bloodstained banian and bloodstained knife were seized and the same was subjected under Property Form No.110 of 2011. Then, PW10 took permission to send MO2 to the FSL. If the articles were seized on 07.11.2011, it is not forthcoming as to why the same was not sent to the FSL till 15.05.2012. Further, there is no FSL report with regard to bloodstained banian seized in this case.

25. Learned Sessions Judge, taking into consideration the above material discrepancies and after giving reasons, has held that the prosecution has failed to establish the guilt of the accused. This appeal is preferred by the appellant-complainant against the judgment of acquittal passed by the trial Court. The trial Court, having



appreciated the material evidence, acquitted the accused of the charges levelled against them. Having re-appreciated the entire evidence, we find the reasons assigned by the trial Court is in accordance with law. Presumption of innocence in favour of the accused is reinforced by the judgment of acquittal. No compelling reasons are made out to reverse the judgment. Hence, we proceed to pass the following

ORDER

Appeal is ***dismissed***.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

MN (PARAGRAPH NOS.1 TO 20)
KVK (PARAGRAPH NOS.21 TO END)
List No.: 1 Sl No.: 16