



CNR: KAHC010102622026

NC: 2026:KHC:44619-DB
CRL.A No. 258 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.258 OF 2026 (A)

BETWEEN:

THE STATE THROUGH POLICE INSPECTOR
URWA POLICE STATION
URWA, MANGALURU
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...APPELLANT

(BY MR. MOHAMMED AYUB ALI, ADDITIONAL S.P.P.)

AND:

Digitally signed
by
SHARADAVANI
B

Location: HIGH
COURT OF
KARNATAKA

1. SANTHOSH SHETTY
S/O. LATE SANJEEVA SHETTY
AGED 36 YEARS
R/AT BELUVAI
MOODAI DAREGUDDE ROAD
BELUVAI VILLAGE, MOODABIDRI
MANGALURU TALUK
2. KRISHNA
S/O. YATHAPPA
SINCE DIED



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SRI SHREENA PURTHULA
S/O. YATHAPPA
AGED ABOUT 64 YEARS
R/AT PUTHURKAL HOUSE
YATHADKA POST
KAMBALJE VILLAGE
KASARAGODU DISTRICT
KERALA STATE

...RESPONDENTS

(BY SRI M. R. BALAKRISHNA, ADVOCATE FOR R-1;
R-2 IS SERVED)

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.PC (419(1) AND (3) OF BNSS) BY THE SPP AND CR.P.C. BY THE ADVOCATE FOR THE APPELLANT FOR STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 01.09.2025 PASSED BY THE LEARNED II ADDITIONAL DISTRICT AND SESSIONS (SPECIAL) JUDGE, D.K.MANGALURU IN SPL.C NO.23/2016, ACQUITTING THE RESPONDENT-ACCUSED OF THE CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 504, 506, AND 302 OF IPC AND SECTIONS 3(1)(x) AND 3(2)(v) OF SC/ST (POA) ACT, 1989 AND SET ASIDE THE JUDGMENT AND ORDER DATED 01.09.2025 PASSED BY THE LEARNED II ADDITIONAL DISTRICT AND SESSIONS (SPECIAL) JUDGE, D.K.MANGALURU IN SPL.C NO.23/2016, INSOFAR AS ACQUITTING THE RESPONDENT-ACCUSED OF THE CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 504, 506, AND 302 OF IPC AND SECTIONS 3(1)(x) and 3(2)(v) OF SC/ST (POA) ACT, 1989 AND CONVICT AND SENTENCE THE RESPONDENT-ACCUSED BY ALLOWING THE APPEAL.



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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 MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

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

The matter is listed for admission and we have heard Sri Muhammed Ayub Ali, learned Additional SPP and Sri M.R.Balakrishna, learned counsel appearing for respondent No.1. Though respondent No.2 was served with notice, but he remained unrepresented.

2. The factual matrix of case of prosecution before the trial Court is that the injured-Krishna was a conductor in 'S.R. Brothers Bus' and he used to stay in the house of Rony at Kodikal. That on 29.10.2015 at 11.30 p.m., the injured Krishna after finishing his work, had dinner in a hotel and proceeded towards the house of his friend Rony and at about 11.45 p.m., when he reached near Infosys bus stand, at that time, an unknown person came from back side, intercepted him and



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assaulted with an iron rod on his forehead, eyebrow and abused him in filthy language and also threatened if he saw the injured at Urwa store hereinafter, he would kill him. However, he slept on the platform in front of the house of Rony. On the next day morning, Udayakumari-PW4 who is a housemaid in the house of Rony, came out and after seeing him with sustaining injuries, brought him to the hospital in a 108 Ambulance. It is further alleged that on 30.10.2015 at 12.45 noon, the Station House Officer on receipt of the said information, visited the hospital and recorded the statement of the injured Krishna (now deceased) and registered a case in Crime No.101 of 2015 for the offences punishable under Sections 506, 341, 326 and 504 of IPC.

2.1. In the statement, it was further stated that he had seen the said assailant with the help of street light and would identify the assailant in future. He does not know the reason for assaulting him by the assailant. The Investigation Agency came up with a different story. According to the investigation, Rony, the complainant and the accused are friends. The injured used to stay in the house of Rony and the accused used to visit the



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house of Rony occasionally. PW.4-Udaykumari is the housemaid in the house of Rony. On the intervening night of 29.10.2015 and 30.10.2015 Rony, the injured and the accused had decided to have party and for preparation of food, Udaykumari also stayed in the house of Rony. It was alleged that during that period, the injured-Krishna was closely moving with Udaykumari and on observing the same, the accused Santosh Shetty questioned Krishna and called Udaykumari to sleep with him in his room. Enraged with the same, Krishna picked up quarrel with the accused, suddenly the accused took a wooden club and assaulted on the forehead and other parts of the body of the injured. It is further alleged that when Udaykumari and Rony came for rescue, the accused gave life threat to them and put them in a room and latched the door from outside and took mobiles belonging to them. The injured Krishna came out of the house and slept on the platform near to the house of Rony. Thereafter, the accused left the spot.

2.2. It was further alleged that on the next day morning, Udaykumari and Rony came out of the house and saw the injured-Krishna was groaning. Udayakumari took him to the



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hospital in an Ambulance. Accordingly, the police after investigation, submitted charge sheet against the accused for the offences punishable under Sections 302, 506 and 504 of IPC and Sections 3 (1) (x) and 3 (2) (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2.3. The matter was referred to the Special Court and charge sheet materials were also supplied. Accused did not plead guilty and claimed to be tried.

2.4. The prosecution in order to prove its case, examined 23 witnesses as PW1 to PW23 and got marked 33 documents as Exhibit P1 to Exhibit P33 and also got marked 14 material objects as MO1 to MO14. The statement of accused was also recorded under Section 313 Cr.PC. The accused did not choose to lead any defense evidence.

3. The Trial Court having considered the statement of injured extracted in paragraph No.49 and according to the prosecution, PW4 is an eye-witness to the incident i.e. Udayakumari and her cross-examination extracted in paragraph No.50 and the evidence of Investigating Officer, who gave



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different story while filing the charge sheet extracted in paragraph No.52, wherein a categorical admission was taken note of in the statement of Krishna who has not stated about the incident took place in the house of PW3 Rony. But he categorically says that person who came from back side assaulted him and also taken note of evidence of the doctor who treated the injured as PW16 and he deposes that on 30.10.2015 injured was brought to the hospital with the history of assault by iron rod in an ambulance by Udayakumari-PW4, who is an eye-witness according to the prosecution.

4. The Trial Court, having taken note of the statement of the injured and the evidence of the prosecution witnesses and so also there was no any similarity with regard to the medical evidence and particularly with regard to the incident is concerned and also taken note of PW7 who is the witness to the mahazar conducted at the instance of the accused and the same is discussed regarding recovery is concerned particularly considering Exhibit P6-CD contains videograph for the recovery and it clearly indicates that the articles were implicated by the investigating agency and then seized the said articles. Having



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considered the evidence of PW4 eye-witness as well as PW11 and the Doctor-PW16 and also the mahazar witness PW7 comes to the conclusion that the prosecution has failed to prove the guilt of the accused as alleged and acquitted the accused. Being aggrieved by the judgment of acquittal, the present appeal is filed by the State.

5. The learned Additional SPP appearing for the State, in his argument would vehemently contend that it is a fit case for admission and would contend that though there is a discrepancy in the case of prosecution as narrated in the statement of the injured as well as in the evidence of PW4, PW11 and the case of the prosecution is solely based on the direct evidence of eyewitness PW3 and PW4, who have partially supported the case of prosecution, the Trial Court has acquitted the accused without applying his judicious mind. The learned Additional SPP also brought to the notice of this Court to the principles laid in the judgment of Apex Court in **Lakshman Singh V/s State of Bihar** reported in **2021 (9) SCC 191** and in the appeal grounds extracted in paragraph Nos.9, 9.1 and 9.2 and also seizure of the Areca nut club-MO3 and also mobile



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phone-MO4 was recovered at the instance of the accused would contend that, the Trial Court without observing and considering the same comes to the conclusion that the evidence of PW7 cannot be believed and even fails to take note of clear opinion of PW7 that external injuries found can be caused by the above-examined weapon when used as a weapon of offence. Hence, prays this Court to admit.

6. Per contra, the learned counsel appearing for the respondent No.1 would contend that Trial Court considering the material available on record i.e. the statement of the injured who gave the statement when he was taken to the hospital and the version of the prosecution is different from the said statement by setting up new theory of prosecution and allegation made in the charge sheet and also the evidence available before the Court i.e. PW3 and PW4 do not inspire the confidence as both of them have turned hostile and the evidence of PW4 and PW7 also not helpful to the case of prosecution. The Trial Court having discussed in detail in paragraph Nos.49 and 50 wherein the eyewitness has given the admission and also in paragraph No.52, I.O. who gave the



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admission comparing the statement made by the victim injured and rightly comes to the conclusion that there is no any corroboration for case of prosecution and extended the benefit of doubt and acquitted the accused.

7. Having heard the learned Additional SPP appearing for the state as well as the counsel appearing for the respondent, this Court has issued notice against the defacto-complainant. In-spice of service of notice, he did not choose to appear and engage the counsel.

8. The Trial Court having appraised both oral and documentary evidence produced by the prosecution, particularly taking note of the injured statement which is extracted in paragraph No.49 and so also the evidence of PW11-I.O, who conducted the investigation categorically admitted that the very case of the prosecution was not narrated by the injured PW1 and also the statement of the injured which is treated as 'Dying Declaration' at Exhibit P9 and there is no any consistency with regard to the case of the prosecution as well as the statement made by the injured,



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clearly discloses that when he was proceeding in the road, a person came from back side, assaulted with the rod. But the case of the prosecution before the Court is that the incident has taken place in the house of PW3 and PW4 was the housemaid servant of PW3. When PW3 and PW4 persons are examined and they have turned hostile and not given the evidence as stated in terms of the statement of the injured as well as the case of the prosecution and the very admissions on the part of PW11-IO is contrary to the very statement of the injured and when the recovery witness PW7 evidence also not believable and the same is taken note of by the Trial Court while appreciating particularly considering Exhibit P6-CD and given reasoning in paragraph No.53 and the same do not inspire the confidence of the Court with regard to recoveries are concerned. When the prosecution relies upon the evidence of PW4 as eye-witness and the incident was taken place in PW3's house and different versions are given and question of admitting this appeal does not arise and there is a discrepancy with regard to the place of incident and also the manner in which the incident has taken



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place and the evidence which is placed before the Court is also not corroborates with each other.

9. Having taken note of material available on record, the same will not come to the aid of prosecution to consider this matter. Hence, no grounds are made out to admit the appeal considering the material on record for reconsideration.

10. In view of the discussions made above, we pass the following:

ORDER

The appeal is **dismissed**.

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

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

MKM
List No.: 1 SI No.: 10