



CNR: KAHC010157582020

NC: 2026:KHC:49569
CRL.A No. 466 of 2020

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 466 OF 2020 (C)

BETWEEN:

1. RAGHURAMA REDDY
S/O RAMAKRISHNA REDDY
AGED ABOUT 64 YEARS
RESIDING AT NO.233,
DESIHALLI, BANGARPET,
KOLAR DISTRICT-563114.
2. VIJAYARAGHAVA REDDY
S/O RAGHURAMA REDDY
AGED ABOUT 42 YEARS
RESIDING AT NO.233,
DESIHALLI, BANGARPET,
KOLAR DISTRICT-563114.
3. VIKRAM REDDY
S/O RAGHURAMA REDDY
AGED ABOUT 38 YEARS
RESIDING AT NO.233,
DESIHALLI, BANGARPET,
KOLAR DISTRICT-563114.
4. VINOD REDDY
S/O RAGHURAMA REDDY
AGED ABOUT 36 YEARS
RESIDING AT NO.233,
DESIHALLI, BANGARPET,
KOLAR DISTRICT-563114.



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5. KIRAN KUMAR
S/O RAMAPPA
AGED ABOUT 33 YEARS
RESIDING AT MUNIYAMMA LAYOUT,
BANGARPET,
KOLAR DISTRICT-563114.
6. KRISHNAPPA
S/O CHIKKAPAPANNA
AGED ABOUT 35 YEARS
RESIDING AT MARATHOSAHALLI
BUDIKOTE HOBLI
BANGARPET TALUK,
KOLAR DISTRICT-563114.
7. SAMPANGI
S/O LATE PAPIREDDY
AGED ABOUT 47 YEARS
RESIDING AT DINNAKOTHUR VILLAGE,
BUDIKOTE HOBLI
BANGARPET TALUK
KOLAR DISTRICT-563114.

...APPELLANTS

(BY SRI. HASHMATH PASHA, SENIOR COUNSEL FOR
SRI. NASIR ALI, ADVOCATE)

AND:

STATE OF KARNATAKA BY:
BANGARPET POLICE STATION,
KOLAR.

(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE-560001).

...RESPONDENT

(BY SRI. K. NAGESHWARAPPA, HCGP FOR R1;
SRI. G. UDHAYAKUMAR, ADVOCATE FOR COMPLAINANT/P1)



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THIS CRL.A IS FILED U/S.374(2) CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 06.03.2020 PASSED BY THE II ADDITIONAL SESSIONS JUDGE, KOLAR IN SPL.C.C.NO.35/2017 - CONVICTING THE APPELLANT/ACCUSED NO.1 TO 7 FOR THE OFFENCE P/U/S 143, 144, 147, 148, 323, 324, 504 AND 506 R/W 149 OF IPC AND SECTION 3(1)(x) OF SC/ST (POA) ACT.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. Appellants/accused have preferred this appeal against the judgment of conviction and order on sentence dated 06.03.2020 passed in Spl.C.C No.35 of 2017 by the II Additional District and Sessions Judge at Kolar (for short the "trial Court").

2. For the sake of convenience, the parties herein are referred to as per their status and rank before the trial Court.

3. The brief facts, leading to this appeal are that the Deputy Superintendent of Police, KGF Sub-Division, KGF, has filed charge-sheet against the accused for the



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offences punishable under Sections 143, 144, 147, 148, 323, 324, 504, 506 read with 149 of Indian Penal Code and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short "SC/ST (PoA) Act"). It is alleged by the prosecution that on 22.07.2017 at about 8:15 am near RR complex, KSRTC Bus Stand, Bangarapet, when CWs1, 4 to 14 tried to clear the encroached area, the accused formed unlawful assembly to restrain the Municipality Staff armed with a deadly weapons like cement and jelly-mixed stones, and committed the offence of rioting. The accused picked-up quarrel and intentionally insulted CWs1, 3 to 14 and abused them in filthy language. Accused No.1 assaulted CW1 Shiva with hands and also pushed him to ground, causing hurt. Accused 1 and 2 assaulted CW1 with cement and jelly-mixed stones on his waist and caused hurt and committed criminal intimidation by threatening to kill CWs1, 3 to 14 and accused not being the members of SC community, intentionally insulted, humiliated, and abused



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CWs 1, 3 to 14, who belong to scheduled caste in filthy language by touching their caste saying "ಈ ಮುಸ್ಲಿಮಾಳು ನನ್ನ ಮಕ್ಕಳು ಬೇವರ್ಸಿ ಮಾಡಿರು ಮತ್ತು ಬೋವಿ ಜನಾಂಗಕ್ಕೆ ಸೇರಿದ ಶಿಲಿರು ಜಾತಿಗೆ ಸೇರಿದ ನನ್ನ ಮಕ್ಕಳು....." within the public view, knowing fully well that CWs1, 3 to 14 belong to scheduled caste community and thereby committed the said offence.

4. After filing the charge-sheet, case was registered in Spl.CC No.35 of 2017. Accused appeared before the Court and were enlarged on bail. On hearing, the trial Court framed charges. The same were read over to the accused in the language known to them. Having understood the same, accused pleaded not guilty and claimed to be tried.

5. To prove the case of the prosecution, 26 witnesses have been examined as PWs1 to PW26, 22 documents marked as Exs.P1 to P22 and three material objects marked as per MOs1 to 3. On closure of prosecution side evidence, statement of accused under



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Section 313 of Cr.PC was recorded. Accused have totally denied the evidences appearing against them. However, they did not choose to lead any defence evidence on their behalf. Having heard on both sides, the trial Court has convicted the accused for the offences punishable under Sections 143, 144, 147, 148, 323, 324, 504, 506 read with 149 of Indian Penal Code and Section 3(1)(x) of SC/ST (PoA) Act and sentenced for the aforesaid offences. Being aggrieved by the judgment of conviction and order on sentence, the appellants are before the Court in this appeal.

6. Sri Hashmat Pasha, learned Senior Counsel appearing on behalf of the counsel appearing for the appellants, would submit that the impugned judgment of conviction and order on sentence is opposed to law, facts, circumstances, and probabilities of the case. He submitted that the trial Court committed serious error in recording conviction against appellants, as absolutely there are no reliable evidence on record. He would further submit that



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in respect of the same incident, the respondent i.e., Bangarapet police have already registered an FIR in Crime No.202 of 2017 and the same incident PW1-Shiva, worker of Town Municipality said to have sustained injury and he has got examined in R.L. Jalappa Hospital by Dr. Subash (PW20) examined him and found only swelling and no bleeding injury and also issued wound certificate as per Ex.P15. As per the doctor, no fracture was found and no serious injury was sustained by PW1. The present case is arising out of Crime No.203 of 2017 filed by Bangarapet Police on the basis of complaint of PW1 as per Ex.P1. But, this is a subsequent FIR created to file two cases in respect of same incident which is not sustainable under law. Further, he would submit that there is inordinate delay of about 40 hours in registering and submitting the First Information Report. The incident is to have occurred at 8:15 am on 22.07.2017, but the FIR is registered at 9:15 pm, which reached the Magistrate at 6:20 pm on 23.07.2017. (the same is altered from 7:30 hours to 8:50



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hours and FIR is registered at 9:15 pm, and the same has reached the Magistrate at 6:20 pm on 23.07.2017). The learned Senior Counsel would submit that in the FIR lodged by the Sub-Inspector of Police in Crime No.202 of 2017, there is no mention of injury sustained by the complainant-Shiva and therefore, it is a false case registered after due deliberation and consultation. Hence, this disturbing feature in the prosecution case has not been properly appreciated by the trial Court.

7. He would further submit that out of 26 witnesses examined, PWs1 to PW19 are workers of Town Municipal Council. Out of these witnesses, PWs9 to 11 and PWs13 to 19 have turned hostile. The other witnesses PWs1 to PW8 have deposed that they were engaged to clean and clear the encroachment on footpath opposite to KSRTC Bus stand, and while clearing, the accused said to have obstructed the workers. But they have not deposed that the complainant had formed an unlawful assembly. The clearance of encroachment on footpath was the work



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of Town Municipal Council and not of the appellants; the appellants had not obstructed the work of these employees. Therefore, no act of assault on any of the workers has occurred. It is because of this reason, PW20-Doctor when examined PW1, he found only some swelling and no other injury was found. If really ceramic cement blocks were dropped on them, there would have been multiple injuries and therefore, the version of prosecution witnesses believes medical evidence and therefore, the trial Court could not have believed their testimony. The witnesses examined, have not deposed anything as to offence under Section 3(1)(x) of the SC/ST (PoA) Act. The trial Court has mechanically recorded conviction for the offence. Mere abuse is not offence under the SC/ST (PoA) Act. It should be prove that the accused intentionally insulted or intimidated in a place within public view, because they belong to scheduled caste. As per the version of prosecution witnesses, public had gathered at that time of clearance of footpath. In and around, many



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shops and commercial establishments, are there and in spite of this, not a single witness is examined to prove the alleged offence and invoked Section 3(1)(x) of SC/ST (PoA) Act, which should be that the appellants have insulted or intimidated them because they are the members of scheduled caste. The examined witnesses themselves not deposed any incident constituting the offence under SC/ST (PoA) Act and due to non-examination of any of the independent and natural witnesses regarding the formation of unlawful assembly and assault and also other offences alleged, an adverse inference is to be drawn against the prosecution.

8. The learned Senior counsel would further submit that the prosecution has not produced any document to show for clearance of unauthorised construction or for widening of Road and no notice is issued to the appellants are to any other unauthorised occupants. Therefore, the act of Town Municipal Council employees is illegal and without authority of law. In fact,



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the first appellant or any other appellants had not encouraged or put up any unauthorized construction on footpath or on the land belonging to Municipality. In reality, the Municipal labourers, in order to cause annoyance to the first appellant, have brought tempos of garbage and dumped in front of his building and inside cellar, because the first appellant had lodged complaint against Municipality to Lokayukta and on such complaint, an enquiry was started against them at the instance of local MLA, due to political rivalry. The Senior Counsel would further submit that the witnesses PWs1 to PW19 have formed unlawful assembly and assaulted the PW1 and regarding this, with regard to the injury sustained by a appellant No.1 he, wound certificate is produced, wherein these injuries are not explained. The witnesses PWs1 to 19 are examined in this case. Out of them, majority of them have been examined in the first case, i.e. in SC No.29 of 2019 on the file of the III Addl. District and Sessions Judge, Kolar-sitting at KGF, which is the main



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case registered regarding the same incident in Crime No.202 of 2017, and therefore, the evidence of PWs1 to 19 is not reliable because of contradictory evidence deposited at different occasion in different proceedings, but in respect of same incident. The investigating officer PW26 was aware that in respect of the same incident, Crime No.202 of 2017 was registered. He ought to have investigated both the cases in Crime No.202 of 2017 and 203 of 2017 together and detected the truth. Instead, he has recorded the statements of only employees of Municipal Council who have formed an union and deposed like parrot-like, and therefore, all the witnesses examined are interested witnesses and belong to one group and they have deposed concocted version and therefore, no reliance can be placed on their testimony. The trial Court committed error in recording conviction for offences under Sections 143, 144, 147, 148, 323, 324, 504, 506, read with 149 of Indian Penal Code, because none of them were armed with any weapon. In trial also, no weapon is



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produced, particularly, deadly weapon to constitute and offence under Section 148 of Indian Penal Code, and therefore, invocation of proviso to Section 149 of IPC is bad in law. These appellants are not aggressors and only the municipal employees are the aggressors who have caused this alleged incident. Therefore, the evidence of prosecution witnesses cannot be believed. The prosecution has suppressed the material facts and filed false charge-sheet against the accused.

9. The learned Senior Counsel has also produced the judgment dated 01.09.2020 passed by the III Addl. District and Sessions Judge, Kolar-sitting at KGF in SC No.29 of 2019, in which, all the accused are acquitted and the prosecution has not preferred any appeal against the said judgment.

10. To substantiate his argument, the learned Senior Counsel has relied on the decision of Hon'ble Supreme Court in the Case of T.T. ANTHONY v. STATE OF KERALA AND OTHERS reported in (2001)6 SCC 181.



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11. On the other hand, the learned counsel appearing for respondent would submit that the trial Court as properly appreciated the evidence on record in accordance with law and facts. He would submit that the learned counsel for the appellants has raised a technical ground, which will not vitiate the proceedings. Hence, on that ground alone, the accused are not entitled for acquittal. Absolutely, there are no grounds to interfere with the judgment of conviction and order on sentence passed by the trial Court, and accordingly, sought for dismissal of the appeal.

12. Sri K Nageshwarappa, learned High Court Government Pleader appearing for the State, would submit that to prove the case, the prosecution has examined the material witnesses PWs4 to 14 and all the witnesses have supported the case of the prosecution. PW16 is the Contractor who has also supported the case of the prosecution. PWs20 and 22 are Medical Officers who have treated the injured. They also have supported the case of



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the prosecution. The learned trial Court has properly appreciated the evidence on record and has rightly passed the impugned judgment and there are no grounds to interfere with the same. Accordingly, he sought for dismissal of the appeal.

13. Having heard the arguments on both sides and perusal of records, the following points arise for my consideration:

- i) Whether the appellants have made out a ground to interfere with the judgment of conviction and order on sentence passed by the trial Court?
- ii) What order?

14. My answer to the above points are:

Point No.1: In the affirmative;

Point No.2: As per the final order.



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15. I have examined the materials placed before this Court. This case is arising out of the complaint filed by PW1-Shiva. The complaint reads as under.:

"ಶ್ರೀ ಶಿವ ವಿ ಜನ್ ವೆಂಕಟರಾಮಪ್ಪ, 28 ವರ್ಷ, ಭೋವಿ ಜನಾಂಗ, ಪುರಸಭೆಯಲ್ಲಿ ಕೂಲಿ ಕಾರ್ಮಿಕ ಕೆಲಸ, ಮನೆ ಸಂಖ್ಯೆ 168, ಸಂಜಯ್ ಗಾಂಧಿನಗರ, ಬಂಗಾರಪೇಟೆ ವಾಸಿ ರವರ ಹೇಳಿಕೆ:

ನಾನು ಈ ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ನನ್ನ ಹೆಂಡತಿ ಮಕ್ಕಳೊಂದಿಗೆ ವಾಸವಾಗಿರುತ್ತೇನೆ. ಈಗ ಸುಮಾರು ಮೂರು ತಿಂಗಳಿಂದ ಭೋವಿ ನಗರದ ವಾಸಿ, ಗೋವಿಂದ ಜನ್ ಸುಬ್ಬಣ್ಣ ರವರು ಪುರಸಭೆ ವತಿಯಿಂದ ಬಂಗಾರಪೇಟೆ ಪಟ್ಟಣದಲ್ಲಿ ಕಸಗುಡಿಸುವ ಟೆಂಡರ್‌ನ್ನು ತೆಗೆದುಕೊಂಡಿದ್ದು ಅದರಲ್ಲಿ ನಾನು ಕೆಲಸ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ ಹಾಗೂ ಗುತ್ತಿಗೆ ಆಧಾರದ ಮೇಲೆ ಪುರಸಭೆಯಲ್ಲಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನಾವು ಪ್ರತಿದಿನ ಬೆಳಗಿನ ಜಾವ 05:00 ಗಂಟೆಗೆ ಬಂಗಾರಪೇಟೆ ಪುರಸಭೆ ಕಚೇರಿಯಲ್ಲಿ ಆರೋಗ್ಯ ಅಧಿಕಾರಿಗಳ ಬಳಿ ಕರ್ತವ್ಯಕ್ಕೆ ವರದಿ ಮಾಡಿಕೊಂಡಾಗ ನಮಗೆ ಇಂತಹ ಇಂತಹ ಜಾಗದಲ್ಲಿ ಕೆಲಸ ಮಾಡಲು ನೇಮಕ ಮಾಡುತ್ತಿದ್ದರು. ದಿನಾಂಕ 22.07.2017 ರಂದು ಬೆಳಿಗ್ಗೆ ಸುಮಾರು 5:00 ಗಂಟೆಗೆ ನಮಯದಲ್ಲಿ ಗುತ್ತಿಗೆ ಆಧಾರದ ಮೇಲೆ ಕೆಲಸ ಮಾಡುವ ಕಾರ್ಮಿಕರು ಮತ್ತು ಪೌರಕಾರ್ಮಿಕರ ಬಳಿ ಕರ್ತವ್ಯಕ್ಕೆ ಆರೋಗ್ಯ ಅಧಿಕಾರಿಗಳ ಬಳಿ ವರದಿ ಮಾಡಿಕೊಂಡಾಗ ಆರೋಗ್ಯ ಅಧಿಕಾರಿಗಳು ನಮ್ಮನ್ನು ಕುಲಿತು ಬಂಗಾರಪೇಟೆ K.S.R.T.C. ಬಸ್ ನಿಲ್ದಾಣದ ಸಮೀಪ ರಘುರಾಮ ರೆಡ್ಡಿ ಇಂಜಿನ್ ಮುಂಭಾಗದಲ್ಲಿ ಫುಟ್‌ಪಾತ್ ಮೇಲೆ ಅಂಗಡಗಳನ್ನು ನಿರ್ಮಾಣ ಮಾಡಿದ್ದು ಅದನ್ನು ತೆರವುಗೊಳಿಸಲು ಮತ್ತು ರಸ್ತೆ ಅಗಲೀಕರಣ ಮಾಡಲು ನೀವುಗಳು ಎಲ್ಲರೂ ಸೇರಿ ಅಲ್ಲಿಗೆ ಹೋಗಲು ತಿಳಿಸಿದರು. ಅದರಂತೆ ಮೇಸ್ತ್ರಿ ಮಾಡಪ್ಪ, ಮೇಸ್ತ್ರಿ ಮಾರಪ್ಪ, ಮೇಸ್ತ್ರಿ ಮುನಿಯಪ್ಪ, ಮೇಸ್ತ್ರಿ ಶಿವಣ್ಣ ಮತ್ತಿತರೊಂದಿಗೆ ರಘುರಾಮರೆಡ್ಡಿ ರವರ ಇಂಜಿನ್ ಬಳಿ



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ಹೋಲಿ ಇದ್ದಾಗ ಅಲ್ಲಿ ರಘುರಾಮ್ ರೆಡ್ಡಿ ಅವರ ಮಕ್ಕಳಾದ ವಿಜಯ ರಾಘವ ರೆಡ್ಡಿ, ವಿಕ್ರಮ ರೆಡ್ಡಿ, ವಿನೋದ್ ರೆಡ್ಡಿ ಮತ್ತು ಇತರ ಸಂಬಂಧಿಕರಾದ ಕಿರಣ್ ಕುಮಾರ್, ಕೃಷ್ಣಪ್ಪ, ಸಂಪೂರ್ಣ ರೆಡ್ಡಿ, ಓಬಳ ರೆಡ್ಡಿ, ಪ್ರವೀಣ್ ಮತ್ತಿತರರು ಸೇರಿ ಆರೋಗ್ಯ ಅಧಿಕಾರಿಗಳ ಮೇಲೆ ಮಾತಿನ ಚಕಮಕಿ ಮಾಡಿಕೊಂಡು ಕೆಟ್ಟ ಮಾತುಗಳಿಂದ ಬೈದಾಡಿಕೊಳ್ಳುತ್ತಿದ್ದರು. ಸ್ವಲ್ಪ ಸಮಯದ ನಂತರ ಪೊಲೀಸರು ಸ್ಥಳಕ್ಕೆ ಧಾವಿಸಿ, ಎಲ್ಲರಿಗೂ ಸಮಾಧಾನ ಪಡಿಸಿದರು. ಬೆಳಿಗ್ಗೆ ಸುಮಾರು 8:15 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಾವೆಲ್ಲರೂ ಅಲ್ಲಿಯೇ ಇದ್ದಾಗ ಪುಟ್ಟಾತ್ ಬಳಿ ಇದ್ದ ಮಣ್ಣನ್ನು ನಮ್ಮ ಕೂಲಿ ಕಾರ್ಮಿಕರ ಮೇಲೆ ಏಕಾಏಕಿ ರಘುರಾಮರೆಡ್ಡಿ ರವರು ನಮ್ಮಗಳ ಮೇಲೆ ಜೆಲ್ಲಿದರು. ನಾವುಗಳು ಸಹ ನೋಡಿಕೊಂಡು ಮುಂದೆ ಹೋದಾಗ ಪೊಲೀಸರು ನಮ್ಮನ್ನು ಸಮಾಧಾನ ಪಡಿಸುತ್ತಿದ್ದರು. ಆ ವೇಳೆಯಲ್ಲಿ ರಘುರಾಮ ರೆಡ್ಡಿರವರು ಕಲ್ಲುಗಳಿಂದ ನಮ್ಮ ಮೇಲೆ ಎಸೆದಾಗ ಸೊಂಟದ ಬಳಿ ತಗಲಿತು. ಇವರ ಮಗನಾದ ವಿಜಯ ರಾಘವ ರೆಡ್ಡಿ, ವಿನೋದ ರೆಡ್ಡಿ, ವಿಕ್ರಮ ರೆಡ್ಡಿ ಹಾಗೂ ಓಬಳ ರೆಡ್ಡಿ, ಕೃಷ್ಣಪ್ಪ, ಸಂಪೂರ್ಣ ರೆಡ್ಡಿ ರವರುಗಳು ಸೇರಿ ನಮ್ಮಗಳನ್ನು ಕುಲಿತು ಇವರೆಲ್ಲರೂ ಮುನಿಸಿಪಾಲಿಟಿ ನನ್ನ ಮಕ್ಕಳು ಬೇವರ್ಸಿ ನನ್ನ ಮಕ್ಕಳು ಎಂದು ಕೆಟ್ಟ ಮಾತುಗಳಿಂದ ಬೈದು ಇವರು ಮಾದಿಗ ನನ್ನ ಮಕ್ಕಳು ಇವರ ಮಾತು ನಮಗೇನು ಎಂದು ಜಾತಿ ನಿಂದನೆ ಮಾಡಿ ರಘುರಾಮ ರೆಡ್ಡಿ ರವರು ನನ್ನನ್ನು ಕೈಗಳಿಂದ ಹೊಡೆದು ಕೆಳಗೆ ತಳ್ಳಿದಾಗ ಅವರ ಮಗನಾದ ವಿಜಯ ರಾಘವ ರೆಡ್ಡಿ ಮತ್ತು ವಿನೋದ ರೆಡ್ಡಿ ರವರು ಸೊಂಟದ ಬಳಿ ಕಲ್ಲುಗಳಿಂದ ಹೊಡೆದು ನೋವುಂಟು ಮಾಡಿದರು. ಕೃಷ್ಣಪ್ಪ, ವಿಕ್ರಮರೆಡ್ಡಿ ಮತ್ತು ಓಬಳರೆಡ್ಡಿರವರು ಬಂದು ನನ್ನ ಮಕ್ಕಳ ನೀವು ಏನ್ ಕೆಲಸ ಮಾಡುತ್ತೀರಿ ನಿಮಗೆ ಕೆಲಸ ಇಲ್ಲ ಎಂದರೆ ನಮ್ಮ ಹತ್ತಿರ ಬನ್ನಿ ನಾವು ಕೆಲಸ ಕೊಡುತ್ತೇವೆ ಎಂದು ಹೇಳಿ ಅವರು ಸಹ ನಮ್ಮ ಮೇಲೆ ಮಣ್ಣು ತೂರಿ ಕೈಗಳಿಂದ ಹೊಡೆದು ನೋವುಂಟು ಮಾಡಿರುತ್ತಾರೆ. ನೀವೇನಾದರೂ ಈ ಕೆಲಸಗಳಿಗೆ ಬಂದರೆ ಹಾಗೂ ನಮ್ಮ ತಂಟೆಗೆ ಬಂದರೆ ಸಾಯಿಸಿ ಇಡುತ್ತೇವೆ ಎಂದು ಪ್ರಾಣ ಬೆದಲಿಕೆ ಹಾಕಿದರು. ಅಷ್ಟರಲ್ಲಿ ಪೊಲೀಸರು ಬಂದಾಗ ಅವರಿಗೂ ಸಹ ಕಲ್ಲುಗಳಿಂದ ಹೊಡೆದರು. ನಮ್ಮ ಕೂಲಿ ಕಾರ್ಮಿಕರಾದ ಸೀನ, ಆನಂದ ಮತ್ತಿತರರು ನನ್ನನ್ನು ಚಿಕಿತ್ಸೆಗಾಗಿ ಬಂಗಾರಪೇಟೆ



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ಸರಕಾಲ ಅಸ್ತತ್ವೆಗಾಲ ದಾಖಲಸಿ ಹೆಜ್ಜಿನ ಜಿಶಿತ್ವೆಗಾಲ ಕೋಲಾರದ ಆರ್. ಎಲ್.
ಜಾಲಪ್ಪ ಅಸ್ತತ್ವೆಯಲ್ಲ ದಾಖಲಸಿರುತ್ತಾರೆ. ನಮ್ಮಗಲ ಮೇಲೆ ಗಲಾಟೆ ಮಾಡಿ ಹೊಡೆದು
ಜಾತಿನಿಂದನೆ ಮಾಡಿದವರ ವಿರುದ್ಧ ಕಾನೂನು ಲೀತಿಯ ಕ್ರಮ ಜರುಗಿಸಲು
ಕೋರುತ್ತೇನೆ."

16. On the basis of the complaint, Bangarapet police registered case against the accused and the FIR came to be registered for the offence punishable under Sections 143, 144, 146, 323, 324, 504, 506, 509 of Indian Penal Code and Section 3(1)(X) of SC and ST (POA) Act and submitted to the Court on 23.07.2017 at 6:20 pm.

17. The alleged incident took place on 27.07.2017 at 8:15 am. The FIR submitted to the Court on 23.07.2017 at 6:20 pm. Further, the FIR reveals the date of dispatch was on 22.07.2017 at 22:45 hours. However, the same has not reached the Court on the same day. This delay in filing the complaint and submitting FIR to the Court, has not been properly explained by the prosecution.

18. PW1-Shiva has deposed in his evidence that he is working in the Municipality as outsource contract,



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labour. CW2 is the Chief Officer of municipality, CW3 was the Health Inspector and CWs4 to 14 were working with him and he know the accused. On 22.07.2016 at about 5:40 to 5:55 am, near KSRTC Bus-stand, accused No.1 has put up unauthorised building near the complex, CW2 and 3 directed him to demolish the said building. Himself, CWs3 to 14 had gone there and when they were demolishing the said Building, accused came there and hurled stones and jelly pieces on them. Raghurama Reddy assaulted him with hands and pushed him. Vijaya Raghava Reddy and Raghurama Reddy assaulted him with stones on his waist and he sustained injuries, and they abused him by touching his caste and threatened him with the dire consequences, if he comes there again. Thereafter, he was shifted to R.L. Jalappa Hospital, Kolar. In this regard, he has lodged complaint to the police as per Ex.P1. He has also given further statement.

19. CW2-K Shivanna examined as PW2, has deposed that between 15.06.2017 to 9.08.2017, he was



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working as Chief Officer of City Municipality of Bangarapet and at that time Bangarapet had 23 Wards. As per the order of District Commissioner and City Municipal Director, he had appointed Govind as Contractor. Under him, the complainant Shiva was working. In Bangarapet Bus stand, RR complex belongs to the accused. On 19.06.2015, the District Commissioner has conducted Proceedings in Bangarapet Reconciliation Committee with regard to vacating the encroached area and to widen the road. At the time of proceedings accused No.1 was present and attested his signature and he was informed to vacate the encroached portion. But accused has not vacated the encroached area. On 17.07.2017 he along with Health Inspector went to the spot and orally informed the accused to vacate the encroached area. On 22.07.2017 he, Health Inspector and complainant have directed CWS2 to 14 to vacate the premises. They have also sought for police protection, then they went to the spot 5:30 am. When they were in the process of vacating the unauthorised



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construction in front of RR complex, somebody have objected the police and their staff, in which the complainant-Shiva received injuries and he went to Hospital. The accused have abused them by referring caste of the complainant. They have also deposed as to Exs.P3 to P7.

20. PW3-Govinda Rajulu, Assistant Health Inspector has deposed that since 2006 he is working as a Health Inspector, Municipal Office at Bangarapet. At that time, CW2-Shivanna was Chief Officer of City Municipality. He knew the complainant and CWs4 to 14 civic labourers. He know the accused. On 22.07.2017 at about 5:30 am as per the order of CW2, himself and CWs1, 4 to 14 went in front of the KSRTC bus stand, where the accused No1 has constructed the building encroaching the road. At that time, the accused came there and started to quarrel with them and obstructed their work. There was scuffle for one and half hour. There was oral exchange between them. When Vijay Raghavendra and Vijay Raghavareddy pushed



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him, he fell down. They assaulted him with concrete stone on his waist and abused him in filthy language. They threw sand on him, and it fell on his eyes, and they abused him touching his caste. They gave life threat to him, if he did not vacate the building. The complainant was first shifted to Government Hospital and then he was brought to Kolar. He identified three stones which are marked as MO1 to 3. At that time, he was giving the attendance which is marked as Ex.P8. In this regard, he gave statement to the police. On 23.07.2017 the police came to the spot and he showed the place. They conducted the Mahazar and recovered three stones and he signed on the mahazar.

21. CW4-Marappa examined as PW4, has stated that he is working as civic labourer in Bangarpet Municipality since 29 years and now he is mason. CW-2 Shivanna is Chief Officer, CW-3 Govindarajulu is Health Inspector. He is working under Govindarajulu. CWs1, 5 to 14 were working with him. He know the accused. About 1 year back, at 5.30 am, they went to Bangarpet KSRTC Bus



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Stand to demolish the building which the accused No.1 had constructed a shop in the main road. CWs.2 and 3 were present as supervisors. The accused did not allow them when they tried to demolish the building. When they insisted that the building is to be demolished, the accused persons threatened with dire consequences. Raghurama Reddy and sons assaulted CW1 with a brick on his waist and abused him in filthy language. The complainant Shiva belong to Scheduled Caste and the accused are Vokkaligas. The accused did not allow to demolish the building. Later they demolished the building under police security. He gave statement to the police in this regard. He identified MOs1 to 3. During the course of his cross-examination, he deposed that when he went to the spot, police were present. There was scuffle for about 2 hours and at the time, public had gathered. He admits that the said building was in front of the bus stand. He did not sustain any injury. He admits that a brickstone and the material prepared by the cement are different. He admits



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that MOs.1 to 3 are neither brick nor stone. He did not take complainant Shiva to the hospital and he has not given any statement to the police. He gave statement to Dy.SP. after 15 days of the incident. About 20 to 25 persons went to give statement on the same day. He admits that he did not tell before the police that accused Raghurama Reddy did not construct any shop on the main road.

22. CW.5-Muniyappa examined as PW.5 has stated that he is working as civil labourer in Bangarpet Municipality since 25 years. The complainant Shiva, CW-4 Marappa, CWs.6 to 14 are working with them and they belong to Scheduled caste community. At the time of incident, CW-2-Shivanna, was Chief Officer of Municipality, CW3-Govindarajulu was Health Inspector. He know the accused. About 1½ years back, at 5-00 am, when he went to the office, CW3 took them to government bus stand, Bangarpet to demolish the wall and the petty shop raised by accused on the government property. CW2 came at 8-



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00 am. As per the directions of CWs2 and 3, when they went to vacate the said building, the accused picked up quarrel with them. Then Inspector came and directed them to vacate the building. The accused persons threatened that they would spare them if they demolish the shop and thrown sand on them and assaulted Shiva with cement block and he sustained injury on his back. They abused them by touching the caste and threatened with dire consequences. The accused Raghurama Reddy pushed the complainant Shiva and assaulted him with stone and he was shifted to Bangarpet Hospital. He gave statement to the Police in this regard and identified M.Os.1 to 3.

23. CW6-Shivappa examined as PW6, has stated that he is working as civil labourer in the office of Municipality, Bangarpet since 28 years. CW3 Muniyappa, CW4 Marappa, CW5 and CWs.7 to 14 are working in the Municipality and they all belong to Scheduled caste community. The accused are Vokkaligas. At the time of



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incident CW2 was Chief Officer of Municipality and CW3- Govindarajulu was Health Inspector. He know the accused. On 22.07.2017, at 5.00 am, when he went to the office, CW3 took them to government bus stand, Bangarpet to demolish the wall and the petty shop raised by accused on government property. CW2 came at 8-30 am. As per the directions of CWs2 and 3, when they went to vacate the said building, the accused picked up quarrel with them. Their Inspector came and directed them to vacate the building. The accused persons threatened that they would not spare them if they demolish the shop and thrown sand on them and assaulted Shiva with cement block and he sustained injury on his back. They abused them by touching the caste and threatened with dire consequences. The accused Raghurama Reddy pushed the complainant Shiva and assaulted him with cement block on his back and legs and he was shifted to Bangarpet Hospital. The accused threatened them with dire consequences if the continued the work. He gave



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statement to the police in this regard and identified M.Os.1 to 3.

24. CW7-Ankaiah examined as PW7, has stated that he is working as civic labourer in the Municipality, Bangarpet since 26 years. CW3 Muniyappa, CW4 Marappa, CW5 and CWs.6, 8 to 14 are working in the Municipality and they are all Scheduled castes. The accused are Vokkaligas. At the time of incident, CW2 was Chief Officer of Municipality and CW3-Govindarajulu was Health Inspector. He know the accused. On 22.07.2017, at 5-00 a.m., when he went to the office, CW-3 took them to government bus stand, Bangarpet to demolish the petty shop raised by the accused on the government property. CW2 came at 8-15 am. As per the directions of CWs2 and 3, when they went to vacate the said building, the accused picked up quarrel with them. Their Inspector came and directed them to vacate the building. The accused threatened that they would will not keep quiet and will assault them if they demolish the shop and also thrown



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sand on them. At first, accused Raghuramareddy pushed Shiva with hands and assaulted him with cement block on his waist. They could not work properly on that day. Shiva was shifted to Government hospital, Bangarpet. The accused abused them by touching the caste and threatened with dire consequences. They called police and continued their work. He gave statement to the police in this regard and identified M.Os.1 to 3.

25. CW8-Venkatesh G. examined as PW8, has stated that he is working as civic labourer in the Municipality, Bangarpet since 24 years. CW3-Muniyappa, CW4-Marappa, CW5, CWs.6, 7, 9 to 14 are working in the Municipality and they are all Scheduled castes. He is not aware the caste of the accused. At the time of incident CW2 was Chief officer of Municipality and CW3-Govindarajulu was Health Inspector. He know the accused. On 22.07.2017, at 5-30 am, when he went to the office, CW3 took them to government bus stand, Bangarpet where the accused Raghurama Reddy had



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raised a petty shop on the government property, and to demolish the same. CW2 came at 8-15 am. As per the directions of CWs2 and 3 when they went to vacate the said building, the accused picked up quarrel with them. At first, Shiva was pushed to the floor and accused Raghuramareddy assaulted him with stone on his waist and all accused abused them by touching the caste. Shiva was shifted to Government Hospital, Bangarpet and then to R.L. Jalappa hospital, Kolar. He gave statement to the police in this regard and identified M.Os.1 to 3.

26. CW9-Ananda examined as PW.9, has stated that he know CWs.1 to 8, 10 to 15. CW15 is their Contractor. He know the accused. About 2 years back, when they went to municipal duties, their inspector Govindarajulu told him to come near Bangarpet Bus Stand and told that a bakery building has to be demolished. One petty shop was there in the said spot, which belongs to the accused and it was kept on the footpath and there was direction to demolish the said shop. They told them to



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vacate the said shop, but they refused. When they went to clear the encroachment, the accused came there and did not allow them to work. At that time, masons and Inspector came and the accused persons picked up quarrel with them. They threw stones and sand on them and the complainant Shiva sustained injury on his waist and they shifted him to Government Hospital. The accused abused them by touching the caste. In this regard, he gave statement to the police and he identified MOs.1 to 3. As the accused quarreled, they could not do government duty. During the course of his cross-examination, he deposed that their Contractor has appointed them only to clean the road and they are not deputed to demolish or vacate the building. They are only doing the work which has been directed by their mason and Chief Officer of Municipality. In the police jeep, they took Shivu to the Bangarpet Hospital and then to SNR hospital, Kolar. Shivu had sustained bleeding injuries on his face and waist and clothes were blood-stained. They went to SNR Hospital at



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8-00 a.m. and thereafter went to Medical College at 12-00 pm. He did not tell to the Doctor about the injuries sustained by Shivu. He did not tell before police that accused persons abused them by touching the caste. He is deposing this fact for the first time and previously, he did not tell before anyone.

27. CW10-Manjunath examined as PW10 has stated that he know CWS1 to 9, 11 to 15 and CW15-Govinda is their contractor. He has received the tender from the Municipality. He know the accused. On 22.07.2017 at 5.00 a.m., they went to duty. Their Health Inspector and Mason informed them that they have to demolish a petty shop which was constructed near the Bangarpet Bus Station on the government property. They went there to work at 8-00 a.m. and at that time, accused thrown sand and jelly stones on them due to which Shivu sustained injury on his back. The accused persons abused them in filthy language by touching the caste. They assaulted them with stones and accused have not let them to do work. In



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this regard, they have given statement to police. Shivu was shifted to Government Hospital at Bangarpet and then to Jalappa Hospital, Kolar. He identified the M.Os.1 to 3. As the accused quarreled, they could not do government duty. Learned Public prosecutor has treated this witness as partly hostile and cross examined him. In his cross examination, he admits that accused No.1 assaulted Shivu with hands and threatened him with dire consequences, if they continue the work.

28. CW11-Srinivasa V. examined as PW11 has stated that he know CWs.1 to 10, 12 to 15 and CW15-Govinda is their Contractor. He has received the tender from the Municipality. He know the accused. They belong to Scheduled caste and accused are Vokkaligas. On 22.07.2017 at 5-00 a.m., they went to duty. Their Health Inspector and Mason informed them that they have to vacate a petty shop which was constructed near the Bangarpet Bus Station on the government property. They went there to work at 8-15 a.m. and at that time, accused



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came there, pushed them and thrown sand and jelly stones on them due to which Shivu sustained injury on his waist. He did not see who assaulted Shivu with stones. As the accused persons restrained them, they could not do government duty. The accused persons abused them in filthy language by touching the caste. After the police came, they demolished the building. Shivu was shifted to Government Hospital at Bangarpet by Anand and others. He identified the M.Os.1 to 3. He reported entire incident to the police. Learned SPP treated this witness as partly hostile witness and cross-examined him.

29. CW12-Ramesh examined as PW.12 has stated that he know CWs.1 to 11, 13 to 15 and CW15-Govinda is their Contractor. He has received the tender from the Municipality. He know the accused. They belong to Scheduled caste and accused persons are Vokkaligas. On 22.07.2017 at 5-00 a.m., they went to municipal duty. Their Health Inspector and Mason informed them that they have to demolish Nandini Parlour, Lodge and a bakery



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shop which was constructed near the Bangarpet Bus Station on the government property. They went there to work at 6-00 a.m. and at that time, accused came there and slept there and they have not let them to demolish the building. As Shiva was assaulted with stone and sand was thrown on him, he sustained injury to his waist. The accused persons abused them in filthy language by touching the caste. After the police came, they demolished the building. Shivu was shifted to Medical College Hospital at Kolar. He identified the M.Os.1 to 3. He reported entire incident to the police. Learned Public prosecutor has treated this witness as partly hostile and cross examined him. In his cross-examination, he admits that the accused No.1 assaulted Shivu with hands and gave life threat if he continues the work, and abused him by touching the caste.

30. CW13-Gangadhar examined as PW13, has stated that he know CWs.1 to 12, 14 and 15 and CW15-Govinda is their contractor. He has received the tender



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from the Municipality. He know the accused. They belong to Scheduled caste and accused are Vokkaligas. On 22.07.2017 at 5-00 a.m., they went to municipal duty. Their Health Inspector and Mason informed them that they have to demolish petty shops which are constructed near the Bangarpet Bus Station on the government property. They went there to work at 6-00 a.m. and at that time accused came there and abused them by touching the caste. As Shiva was assaulted with stone, he sustained injury on his waist and since the accused restrained them, they could not do government duty. Shivu was shifted to Medical College Hospital at Kolar. He identified the M.Os. 1 to 3. He reported entire incident to the police. These witnesses are treated as partly witness and examined by the learned SPP.

31. CW14-Jagadish examined as PW14, has stated that he know CWs.1 to 13 and 15 and CW15-Govinda is their contractor. He has received the tender from the Municipality. He know the accused. They belong to



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Scheduled caste and accused are Vokkaligas. On 22.07.2017 at 5-00 am, they went to municipal duty. Their Health Inspector and Mason informed them that they have to demolish petty shops which are constructed on the municipal property at Bangarpet Bus Station. They went there to work at 8-15 a.m. and at that time accused came there and thrown sand on Shivu and assaulted him with stones, due to which he sustained injury on his waist and accused abused them by touching the caste. Accused No.1 assaulted with stone and other accused thrown sand on them. Shivu was shifted to Medical College Hospital at Kolar. He identified the MOs.1 to 3. This witness is treated partly hostile witness and examined by the learned SPP.

32. CW17-C. Ravikumar, PSI, Kamasamudra Police Station examined as PW15, has stated that he know CWs.1 to 14, CW2 is Chief Officer of Municipality and CW3 is Health Inspector. On 21.07.2017, while he was in the station, CW3 came to the station and gave requisition requesting to give security on 22.07.2017 to demolish the



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building which are constructed on the foot path unauthorizedly in front of RR Complex near the Bangarpet Bus Stand. As per the said requisition, by informing the higher officers, on 22.07.2017 at 7-00 a.m., himself, CWs.18 to 21 and other staff went to Bangarpet Bus Stand for bandobast. By that time, Health Inspector, labourers and staff of Municipality were present at the spot with implements. When the work started on the supervision of Health Inspector at 8-15 a.m., the accused suddenly formed unlawful assembly and picked up quarrel to stop the work. Health Inspector told them that he has to demolish the unauthorized constructions which are constructed on government footpath and requested not to interrupt them. But accused Raghurama Reddy abused the municipal labourers in filthy language and thrown sand on them. In spite of that, when the labourers continued their work, accused Raghurama Reddy went near Shiva and slapped him on his cheek and pushed him on the floor and assaulted him with cement block and jelly stone on his



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waist. Vikramreddy and Krishnappa thrown sand on the labourers and assaulted Shiva with hands and gave life threat to him, if he continues the work. When himself, PSI Vasanth and his staff went to the protection of labourers, the accused Vijayaraghava Reddy assaulted him with cement block and jelly stones on his head due to which he sustained bleeding jury on his head. He shifted Shiva to Government Hospital as he was screaming with pain. He was also admitted to Government Hospital and filed a separate criminal case. On 28.07.2017, he gave statement before the Dy.SP as the accused interrupted them in doing government duty. Subsequently, under bandobast, they completed the work. He identified Mos.1 to 3. The other accused also participated in the unlawful assembly. On 21.07.2017, he submitted copy of station diary to the Dy.SP to show that he worked on the said day.

33. CW15-M. Govinda examined as PW16, has stated that he know CWs.1 to 14. CW2 is Chief Officer of



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Municipality, CW3 is Health Inspector. He had received tender of cleaning all the wards of the Municipality in the year 2016 through E-Tender and he started his work in the year 2017. There was an agreement between him and the Municipality as per Ex.P3. There is another agreement between him and the Municipality as per Ex.P10. During that period, he appointed 96 labourers for the work. In this regard, he has two lists as per Ex.P11 and Ex.P12 and Health Inspector has maintained a diary as per Ex.P8 and another diary as per Ex.P13. On 22.07.2017, all the labourers and officers went to vacate the encroachment made on the municipal property near Bangarpet Bus stand. He came to know that a there was a quarrel and Shiva sustaining injuries in the said quarrel. He was not present at the time of incident. He gave statement with regard to appointment of labourers he made.

34. CW18-Vasanth, PSI, Masthi Police Station examined as PW17 has stated that he know complainant Shiva and CWs.1 to 14, CWd17, 19 to 22. On 21.07.2017,



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the Superintendent of Police, KGF had told him to report before the PSI, Bangarpet for bandobast duty for vacating the unauthorized building at Bangarpet. Accordingly, on 22.07.2017 at 6-45 am, he reported for the duty and himself, the PSI, Bangarpet and his staff went to KSRTC Bus Stand near RR Complex. There the Municipal Officers and labourers also came to the spot to vacate the shops which were unauthorizedly constructed. They were on bandobast duty. At 8-15 am, accused formed unlawful assembly and interrupted the labourers in the work though the labourers and officers told about the District Commissioner's order. The accused threw sand on the labourers. Accused Raghuram Reddy slapped on the cheek of complainant Shiva, as such, he fell down. Though other labourers restrained him, accused Raghurama Reddy and his sons assaulted Shiva with cement block and as such he fell down. Though he and other police restrained the accused, they assaulted PSI Ravikumar with stone on his head and caused bleeding injury. Later, they shifted



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the PSI and Shivu to Bangarpet Hospital for treatment. The accused persons abused the labourers in filthy language by touching the caste, pushed them, interrupted the work and gave life threat. As such, they faced trouble in discharging government duty. In this regard, he gave statement to Dy.SP. The work was completed with the help of additional bandhobast platoon.

35. CW19-S.K. Diwakar Naidu, ASI, Bangarpet Police Station examined as PW18, has stated that he know CWs.1 to 14, 18, CWs.20 to 22. He know the accused. On 22.07.2017, the PSI took him along with Police Constable No.3, 15, 64, 86, 41, 279, 152, 166 and 279 at 6-30 am, to KSRTC Bus Stand, Bangarapet near RR Complex for evacuating the encroachment. The Municipal Officers and staff came to vacate the building near RR complex which was unauthorizedly constructed on the municipal property. They started the work at 8-15 a.m. and at that time, the accused came there by forming unlawful assembly and interrupted the labourers and officers from doing the work.



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When they told that there is an order from District Commissioner to vacate the unauthorized building and told them not to interrupt the work, the accused Raghurama Reddy slapped Shivu and his son Vijayarama Reddy assaulted him with cement block on his back. They gave life threat if they continue the work. When the PSI Ravikumar intervened to pacify them, accused Vijayaraghava Reddy and his father assaulted him on his head with stone and as such, PSI sustained bleeding injury. He was shifted to hospital and Shivu was shifted to hospital by the labourers. The accused persons abused the municipal labourers by touching their caste. In this regard, he gave statement to the police. He told that the accused Nos. 1 to 3 assaulted with M.Os.1 to 3.

36. CW25 Anandappa examined as PW19, has fully turned hostile by deposing that he signed on Ex.P14 in the office of Superintendent of Police, KGF about 2 years back. He signed near Bangarpet Government Bus stand relating to the quarrel held between the accused and municipal



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labourers. He went to the spot two years back and the Inspector, staff of Municipality were present. By the time he went there, there were quarrelling. On the spot, his signature was taken regarding the quarrel. He had not seen the material objects of this case on the spot. Learned Public Prosecutor has treated this witness as hostile and cross examined him. In his cross examination, he admits that on 23.07.2017, the police called him to the incident spot and conducted mahazar relating to the quarrel. He denied the seizure of MOs.1 to 3 from the spot. During the course of cross examination by learned counsel for accused, he admits that he signed on Ex.P14 in the SP office, KGF.

37. CW30-Dr.Subhash.S, Medical Officer, PHC Malavalli Government Hospital examined as PW20, has stated that on.22.07.2017 at 5:20 pm, Venkataramappa brought Shivu with history of assault by a stone on his stomach and back at Bangarapet bus stand when he examined him, he found pain and injuries on his back and



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pain inside his stomach. When he subjected the injured to x-ray and scan, he did not find any inner injuries. He opined that the said two injuries are simple in nature which are shown in Ex.P15. Further he has deposed that on 11.09.2017 the Dy.SP. had sent to cement mixed stones from his office. He verified the same and opined that the said injuries are not caused by the said material as per Ex.P16. The police have shown him MO1 to 3 on that day.

38. CW27-V.Lokesh examined as PW21 has stated that 30.08.2017 the DyS.P called him to record the statement of witness in video and accordingly when he went to the Dy.SP office, the witness Shiva was present. He captured the recording of further the statement of Shiva in a video and in this regard, he handed over one compact disk to the Dy.SP.

39. CW31-Dr.Pavan Kumar, Medical Officer, Jalappa Hospital, Tamaka examined as PW22 has stated that on 22.07.2017, one injured Shiva came to their hospital for



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treatment. The PSI of Bangarapet Police Station came to Jalappa Hospital and recorded the statement of Shiva in this presence as per Ex.P1.

40. CW32-G.Ramachandra retired PSI examined as PW23 and CW33-Mustaq Pasha, CPI examined as PW25 have deposed as to their respective investigation.

41. CW26-Kumar examined as PW24 has stated that he signed on Ex.P14 about three years back at the spot of incident.

42. A careful examination of the entire evidence on record, I do not find any materials to constitute the offences punishable under Sections 143, 144, 147, 114 read with Section 149 of IPC. However, the trial Court has convicted the accused for the offences punishable under section 143, 144, 147, 148 read with Section 149 of IPC, it is not sustainable under law.

43. With regard to the offences punishable under Section 323, 324 read with 149 of IPC are concerned. It is the case of prosecution that it is evidence of PW1-Shiva



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that Raghurama Reddy has assaulted with hands and pushed him. Vijay Raghavendra and Vijay Raghavendra have gave blow to him with stone on his waist.

44. In Ex.P1-Complaint, it is stated that Raghurama Reddy gave blow to PW1 with stone injuries shown in the wound certificate reveals that PW1 has not sustained with any injuries except tenderness. PW20 Dr Subhash.V, Medical Officer who has treated the injured has clearly deposed in his evidence that he did not found any inner injuries and he has issued wound certificate as per Ex.P15. Further, he has clearly admitted that if any person is assaulted with stone by using little force, there are chances of causing injuries. He has opined that the injuries are not caused by the said material objects-MOs1 to 3. The evidence of PW1 has not been sustained by medical evidence. Medical evidence is quite contrary to the evidence of PW1. Therefore, the interested testimony of PW1 cannot be believed without cogent, convincing, legal evidence before the court. Accordingly, the



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prosecution has failed to prove the guilt of the accused for the offence punishable under section 323, 324 read with section 149 of IPC.

45. With regard to the offence punishable under section 504 and 506 read with 149 of IPC is concerned. The prosecution has not followed the ingredients to prove the offence under Section 504 and 506 of IPC.

The essential ingredients of Section 504 of IPC as under:

(a) Essential Ingredients.- *An offence under this section has following essential ingredients:*

(i) Intentionally insulting a person and thereby giving provocation to him.

(ii) The person insulting must intend or know it to be likely that such provocation will cause him to break the public peace or to commit any other offence.

The essential ingredients of Section 506 of IPC as under:



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(a) Essential Ingredients.- *The offence of criminal intimidation has been defined under Section 503 I.P.C., Section 506 provides punishment for it.*

1. *Threatening a person with any injury;*

(i) to his person, reputation or property; or

(ii) to the person, or reputation of any one in whom that person is interested.

2. *The threat must be with intent;*

(i) to cause alarm to that person; or

(ii) to cause that person to do any act which he is not legally bound to do as the means of avoiding the execution of such threat; or

(iii) to cause that person to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat.

46. In the case on hand, absolutely there are no evidence to constitute the offence punishable under Sections 504 and 506 of IPC. Except verbal abusive words hurled against the PW1, there is no sufficient evidence to



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prove the guilt of the accused for the offence punishable under section 504 and 506 read with Section 149 of IPC.

47. With regard to the penal provisions of SC/ST (PoA) Act, 1989 is concerned, the accused have not assaulted PW1 knowing fully well that PW1 belongs to Scheduled caste and PW1 is the stranger. Accused have no the knowledge about the caste of the PW1 at the time of incident. The incident took place with regard to vacating the portion said to have been encroached by the accused. On perusal of the materials place before me, I do not find any sufficient materials to constitute the penal provisions of SC/ST (PoA) Act, 1989.

48. The prosecution has failed to prove the ingredients of penal provisions of SC/ST (PoA) Act and also observations made by the Hon'ble Apex Court in the case of HITESH VERMA v. STATE OF UTTARAKHAND AND ANOTHER reported in (2020)10 SCC 710.

49. In the instant case, it is submitted that Bangarapet Police have registered two cases pertaining to



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same offences under Crime Nos.202/2017 and 203/2017 on a single day. After investigation Crime No.202/2017 the case was registered in SC No.29/2019 on the file of the I Additional District and Sessions Judge, Kolar dated 01.09.2020 and the same was ended with acquittal. Copy of the judgment pertaining to SC No.29/2019 is also produced.

50. The investigating officer has also admitted in his evidence as to the registration of two cases pertaining to same offence. However, the Investigating Officer has suppressed the material facts pertaining to SC No.29/2019. The trial Court has not discussed anything as to the registration of another case in Crime No.202/2017. During the course of evidence of PW26, he has clearly admitted that at the time of commission of alleged offences, the police officials were present. He has clearly admitted that the Municipal Officers have informed to the police that there is a possibility of scuffle at the time of vacating the encroached structure and they have sought



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for assistance from police. Hence, on the date of incident two PSI, one ASI and other staff were deputed for bandobast. Further, he has admitted that on the basis of the complaint filed by Ravi Kumar SC No.29/2019 was registered in District Court, KGF. It is admitted by the Investigating Officer that on the basis of the suo-motu complaint filed by the PW26, the case was registered in Crime No.202/2017. Under such circumstances, they need not registered another Crime No.203/2017 by altering the time in Ex.P1 as 8:15 pm instead of 7:00 am. This conduct of Investigating Officer prima-facie reveals that knowing fully well, the Investigating Officer suppressed the materials facts and submitted the charge-sheet against the accused which is not sustainable under law.

51. The trial Court has not properly appreciated the evidence on record in accordance with law and facts. Though the trial Court has noticed the admission made by the Investigating Officer regarding the registration of case



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in Crime No.202/2017 subsequently, it is registered in SC No.29/2019. The trial court has not discussed anything in this regard. Viewed from any angle, I do not find any cogent convincing, clinching, collaborative, trustworthy legal evidence before the Court to convict the accused for the alleged commission of offences. Accordingly, I answer point No.1 in the ***affirmative***.

52. For the foregoing reasons and discussions, I proceed to pass the following:

ORDER

- i. Appeal is allowed.
- ii. The judgement of conviction and order on sentence passed by the II Additional District and Sessions Judge, Kolar in Spl.C.C No.35/2017 dated 06.03.2020 is set aside.
- iii. Accused 1 to 7/appellants 1 to 7 are acquitted of the offences punishable under Sections 143,



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144, 147, 148, 323, 324, 504, 506 of IPC and
Section 3(1)(x) of SC/ST (PoA) Act.

- iv. The bail bond of the accused shall stand cancelled.
- v. The trial Court is directed to refund the fine amount, if any, deposited by the appellants.

**Sd/-
(G BASAVARAJA)
JUDGE**

KBM
List No.: 1 Sl No.: 64