



CNR: KAHC010190252019

NC: 2026:KHC:46472-DB
CRL.A No. 1259 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1259 OF 2019

BETWEEN:

1. THE STATE OF KARNATAKA,
POLICE SUB-INSPECTOR,
BANTWAL RURAL POLICE STATION,
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGLAURU-560001.

...APPELLANT

(BY SRI. SUHAS GOWDA M., HCGP)

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

AND:

1. SANTHOSH @ PRASHANTH,
S/O KUSAPPA POOJARY,
AGED ABOUT 34 YEARS,
RESIDING AT AREBETTUMANE,
VEERAKAMBHA VILLAGE,
BANTWAL TALUK,
D.K-574211.

...RESPONDENT

(BY SRI. KETHAN KUMAR, ADVOCATE)



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THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF CR.P.C PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 18.02.2019 ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU IN S.C.NO.171/2017, IN SO FAR AS, ACQUITTING THE ACCUSED-RESPONDENT FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 147, 148, 326, 341, 506, 307, 114 R/W 149 OF IPC.

THIS APPEAL COMING ON FOR HEARING 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)

This matter was heard in the previous occasion on 24.08.2026 and having noticed that accused Nos.1 to 5 were acquitted in S.C.No.82/2014, this Court directed both the learned counsel to verify whether any appeal is filed against accused Nos.1 to 5.

2. Today the learned counsel for the respondent/accused submits that S.C.No.82/2014 was disposed of by the Trial Court on 13.11.2017 and no appeal is filed against the real assailants i.e., accused Nos.1 to 5. But this appeal is filed



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against the respondent, who is accused No.6 and the role played by this accused is only that all of them went in autorikshaw and there was no any overt-act allegation against this accused, but appeal is filed only against this accused.

3. The learned High Court Government Pleader appearing for the appellant/State would vehemently contend that though appeal is not filed against accused Nos.1 to 5, who are acquitted, but the Trial Court committed an error in acquitting this respondent/accused No.6 that the evidence of P.W.3 and P.W.4 are contradictory to each other. The learned counsel would submit that the weapons were kept in the autorikshaw belonging to this accused and the real assailants i.e., accused Nos.1 to 5 came in the autorikshaw and after inflicting the injury on the victim, they went in the very same autorikshaw and the same has not been properly considered by the Trial Court.

4. Per contra, the learned counsel for the respondent/accused No.6 would submit that the Trial Court while acquitting accused Nos.1 to 5 also taken note of the evidence of P.W.13 and P.W.14 in S.C.No.82/2014 that both



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the evidence are contradictory to each other. The learned counsel producing the copy of the judgment in S.C.No.82/2014 brought to the notice of this Court paragraph No.40, wherein an observation is made that as per the records available before the Court, P.W.13 alone went to the Mosarukudike Utsava and he came back to his house and revealed before his wife about the galata that took place in the Mosarukudike Utsava. But P.W.14 deposed before the Court as if she is an eye witness to the incident. P.W.13 also changed his version stating that he went to the Mosarukudike Utsava along with his wife and children. Exs.D.1 and 2 are the contradictions and improvements which shows the interestedness of the witness in getting conviction against the accused persons. The learned counsel also brought to the notice of this Court that the Trial Court in S.C.No.171/2017, while acquitting this respondent also, made a similar observation in paragraph No.39. In paragraph No.40, it is observed that P.W.3 stated that accused Nos.1 and 2 are his friends. When complainant, accused Nos.1 and 2 are friends, there must be some reason to develop enmity. P.W.3 has not deposed anything as to why enmity



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arose between them. The victim P.W.3 and his wife P.W.4 also made allegations against the police officers in their evidence before the Court. Having considered the contradictions and inconsistencies in the evidence, the Trial Court rightly acquitted the accused.

5. Having heard the learned High Court Government Pleader appearing for the appellant/State as well as the learned counsel for the respondent/accused and on appreciation of the evidence, the points that would arise for the consideration of this Court are:

- (i) Whether the Trial Court committed an error in acquitting the respondent/accused No.6 for the offences punishable under Sections 143, 147, 148, 326, 341, 506, 307, 114 read with 149 of IPC and whether it requires interference of this Court?
- (ii) What order?

Point No.(i):

6. Having perused both oral and documentary evidence available on record, particularly the star witness of the prosecution i.e., P.W.4, she has deposed before the Court



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as if she is an eye witness to the incident. P.W.3 also changed his version stating that he went to the Mosarukudike Utsava along with his wife and children. But the statement made before the police is contrary to each other. Exs.D.1 and 2 are the contradictions and improvements which shows the interestedness of the witness in getting conviction against the accused persons. Similar observation is also made by the Trial Court in S.C.No.82/2014 when accused Nos.1 to 5 have faced the trial. It is also important to note that when accused Nos.1 to 5 against whom a specific allegation is made that they inflicted injury on the victim, they were acquitted. The Trial Court also given the reasoning in paragraph No.40 that there are contradictions in the evidence of P.W.13 and P.W.14. No appeal is filed against the acquittal of accused Nos.1 to 5, who are the real assailants. The only allegation against accused No.6 is that he being the member of unlawful assembly, in furtherance of common object, went along with accused Nos.1 to 5 in his autorikshaw and he took them in the autorikshaw and weapons were also there in his autorikshaw and immediately after inflicting the injury on the victim, they left



the place. But no overt-act allegation is made against accused No.6, except he went along with other accused persons. The Trial Court also taken note of the evidence available on record and particularly, the star witnesses P.W.3 and P.W.4 evidence is inconsistent. P.W.4 claims that she was an eye witness to the incident. P.W.3 evidence is otherwise that he went alone to attend the Mosarukudike Utsava and he came back and revealed about the incident to his wife.

7. The Trial Court in paragraph No.40 taken note of P.W.3 has not deposed anything as to why enmity arose between them. The victim P.W.3 and his wife P.W.4 also made an allegation against the police officers in their evidence before the Court and the same was discussed by the Trial Court in the judgment. When there was no any such prior enmity and the evidence of the witnesses are inconsistent and also when there are improvements in the evidence of P.W.3 and P.W.4, we do not find any ground to convert the acquittal to conviction. The principles laid down in the judgment of the Apex Court in the case of **MALLAPPA AND OTHERS v. STATE OF KARNATAKA** reported in **(2024) 3 SCC 544**, is very clear regarding re-



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appreciation of evidence and reversing the judgment. To reverse the judgment, there must be a perversity in the finding of the Trial Court, which has resulted in miscarriage of justice. When there is no such miscarriage of justice and perversity in the finding of the Trial Court, the question of entertaining the appeal does not arise and converting the same from acquittal to conviction also does not arise when there is no cogent evidence before the Court. Hence, we answer the point in the negative.

Point No.(ii):

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

ORDER

Appeal is dismissed.

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

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

MD
List No.: 1 Sl No.: 6