



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 237 OF 2015

BETWEEN:

THE STATE BY ASST.
SUPERINTENDENT OF POLICE,
PUTTUR SUB-DIVISION,
PUTTUR,
REP. BY THE SPECIAL PUBLIC
PROSECUTOR,
D.K.MANGALORE-575 001

...APPELLANT

(BY SRI.M.DIWAKAR MADDUR, HCGP)

AND:

1. PADMANABHA SHETTY
S/O NARAYANA SHETTY,
AGED ABOUT 36 YEARS,
R/AT HOSAMANE,
PERUVAJE VILLAGE,
SULLIA TALUK-574 239
2. JAGANNATHA RAI
VISHWANATHA RAI,
AGED ABOUT 32 YEARS,
R/AT HOSAMANE,
PERUVAJE MANE,
BELLARE VILLAGE,
SULLIA TALUK-574 239
3. SATHYANARAYANA K.,
S/O KOTE GANESHA SUBBAPPAYYA,
AGED ABOUT 59 YEARS,



R/AT VIJAYANAGARA MANE,
BELLARE VILLAGE,
SULLIA TALUK-574 239

4. SMT.ANUSUYA
W/O RAMA U.,
AGED 51 YEARS
MUNDAJE MANE
PARUVAJE VILLAGE
SULY TALUK,
D.K. DISTRICT- 574 212

...RESPONDENTS

(BY SRI. JAYAPRAKASH RAI, ADVOCATE FOR
R1 TO R3- ABSENT)

THIS CRL.A. FILED U/S.378(1) AND (3) CR.P.C., PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 25.11.2014 PASSED BY THE LEARNED II ADDL. DISTRICT & SESSIONS (SPL.JUDGE), D.K., MANGALORE IN S.C.NO.55/2012, THEREBY ACQUITTING THE RESPONDENTS/ACCUSED OF THE OFFENCES P/U/S 448, 323, 506, 109 R/W SEC.34 OF IPC AND SEC.3(1)(x) OF SC/ST (PA) ACT 1989.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The State had preferred this appeal against the judgment of acquittal passed by II Addl. District and Sessions (Special) Judge, D.K., Mangalore in Special Case No.55/2012 dated 25.11.2014.



2. Parties are referred to as per their rank before the trial court.

3. Brief facts leading to this appeal are that the Assistant Superintendent of Police, Puttur Sub-Division, Puttur submitted the charge-sheet against the accused for the offence under Sections 448, 323, 506, 109 r/w Section 34 of IPC and Section 3 (1)(x) of S.C. and S.T.(P.A.) Act 1989. It is alleged by the prosecution that the complainant-Anasuya who is examined as P.W.1 files a complaint to Sub Inspector of Police of Sullia Police station at about 1.30 p.m. on 28.07.2012 alleging that on 27.7.2012 in the early morning, the owner of her neighbouring property had brought some goondas to her place and had abused her husband in filthy words taking the name of their caste and had also threatened with dire consequence and had also removed some of the pillars of the fence. It is stated that in order to lodge a complaint, when her husband had been to the office of Assistant Police Superintendent at Puttur at about 10.00 a.m., one Padmanabha, Jagannatha and three others of Bellare came with a JCB to her place and forcibly entered into her property and



started work. It is stated that the complainant went to the spot and requested that there is a case pending in the court and therefore illegal activities should be stopped. It is stated that those people threatened that the complainant would be killed by putting her under the JCB and immediately she called her husband over phone who was in the office of the A.S.P. at Puttur and informed the police officers concerned. It is stated that the police officers informed Bellare police outpost and directed the police to stop the illegal activities of the accused. It is stated that the police of Bellare outpost police had come to the spot and had seen the illegal activities done by the accused. It is stated that by the time police had come, the accused had completed the illegal activities and had kept the JCB outside the premises and thereafter at about 1.00 p.m., the said Padmanabha, Jagannatha and three others came into her house illegally and abused that "ಬೈರ ಜಾತಿಗೆ ಸೇರಿದ ನಿಮಗೆ ಎಷ್ಟು ಅಹಂಕಾರ" and also informed that one Sathyanarayana Bhat had threatened to break their leg. The compliant also states that the accused No.1 abused the complainant with taking name of her caste and the accused Padmanabha pulled her and she



alone was in her house and therefore she screamed and hearing her screaming, her husband's brother and his wife came to the spot and on seeing them, the accused went away saying that they would not be spared with life either today or tomorrow. Therefore it was alleged that the said Sathyanarayana Bhat, Padmanabha, Jagannatha and three others have committed the offence and action be taken against them.

4. After filing the charge sheet cognizance was taken by the trial court and case was registered in Spl.C.No.55/2012. On hearing the charges the trial court framed the charges for the alleged commission of offences and the same were read over and explained to the accused. Having understood the same, the accused pleaded not guilty and claims to be tried. To prove the guilt of the accused the prosecution has examined all the ten witnesses as PW1 to 10. Ten documents were marked as Ex.Ps.1 to 10. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C was recorded. Accused have totally denied the evidence of prosecution witnesses. However, they did not choose to lead any defence evidence on



their behalf. Having heard the arguments on both sides, the trial court had acquitted the accused for the alleged commission of offences. Being aggrieved by the judgment of acquittal, State has preferred the appeal.

5. Learned HCGP Sri. M. Diwakar Maddur, would submit that the impugned judgment and order of acquittal passed by the learned Sessions Judge is contrary to law, facts of the case and evidence on record. The reasons assigned by the learned Sessions Judge while passing the impugned judgment and order of acquittal for the charged offences are erroneous and improper. Hence, it has reached at a wrong conclusion resulting in substantial miscarriage of justice. The trial court has not properly appreciated and analysed the evidence of PW1 to 5. On these grounds, it is sought for allowing this appeal.

6. Learned counsel for the respondent remained absent. Arguments on behalf of the respondents is taken as nil.

7. Having heard the arguments of the learned HCGP and on perusal of materials, the following points would arise for my consideration:



- i. *Whether the Trial Court is justified in acquitting the accused for the alleged offence under Section 448, 323, 506, 109 r/w Section 34 of IPC and Section 3 (1)(x) of S.C. and S.T.(P.A.) Act 1989?*
- ii. *What order?*

8. My answer to the above points are as under:

Point No.1: Affirmative,

Point No.2: As per final order.

Regarding Point No.1:

9. I have carefully examined the materials placed before this Court.

10. Before adverting to the actual facts of the case and appreciation of evidence, it is necessary to refer the dictum of Hon'ble Supreme Court regarding scope and power of Appellate Court in appeal against the order of acquittal. In the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOUDA RUDRAGAUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and H.D.



SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. In the case of H D SUNDARA (supra), the Apex Court has summarized the principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure as under:

"8. ...8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was



proved beyond a reasonable doubt and no other conclusion was possible."

11. In the case of BABU SAHEBGOUDA RUDRAGAUDAR AND OTHERS (supra) it is observed that it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles. The same are:

1. That the judgment of acquittal suffers from patent perversity;

2. That the same is based on a misreading/omission to consider material evidence on record; and

3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

12. In the case on hand, the trial court has discussed the evidence of PW1 to 4 in detail and in para Nos.14 and 15, the trial court has observed as under:

"14. The evidence of P.W.1 to 4 shows that they are the members of same family, though residing separately and there is dispute between them and the accused in respect of the property. The accused No.3



had sold the disputed property to the accused No.1 and the accused No. 1 cleaned his property with JCB and the said space was claimed by P.W.1 to 4. It is an admitted fact that there is civil case pending between them. The spot sketch and the panchanama were prepared in the presence of P.W.6 Lokesh. P.W.6 has stated that the spot sketch was also prepared in his presence. The perusal of the spot sketch which is produced as Ex.P.3 shows that there is a trench separating the survey number belonging to the P.W. 1 and 4 and that of the accused No.3. The spot sketch also shows that the spot of the incident is beyond the said trench, extending into the property shown to be belonging to accused No.3. Thus it is clear that though there is a trench, the property belonging to the accused No. 1 and 3 is claimed by the P.W.1. The spot sketch may be better understood with reference to the survey map secured by the Investigating officer from the Tahasildar. The said map is produced at Ex.P.7. It may be noted that basic dispute between the P.W.1 and the accused is in respect of the boundary and the alleged encroachment. Therefore the fact that in order to force the accused No.1 and 3 to part with encroached property of P.W.1, filing of this complaint and the case cannot be overruled. Precisely, this is the argument of the learned counsel for the accused. Under these circumstances, it appears that there is every possibility that an incident has been exaggerated and embellished by the P.W.1 and her family members and there is no cogent evidence to show that the P.W.2 and P.W.4



were not on duty on that day. Both of them are working in government undertakings and the cogent evidence regarding their absence from duty would have established their presence at the spot. Thus the cogent evidence which could have been collected by the Investigating officer is not available on record. The evidence of P.W.5 is only half hearted and it cannot be excluded from the doubtful circumstances as she may be a beneficiary of P.W.1, who was the member of Taluk Panchayath and an active Congress worker. Under these circumstances, it would not be safe to place reliance on the testimony of P.W.1 to 4 and half hearted testimony of P.W.5. Though it is argued by the learned Public Prosecutor that only such portion of the evidence of P.W.1 to 4 and 5 would be believed by the court, the circumstances shown by the accused do not inspire my confidence in the evidence of P.W.1 to 4 and 5.

15. In the statement given by the accused No.1 to 3 in response to their questions posed u/s.313 Cr.P.C., they have stated that the P.W.1 to 4 in one or other way are encroaching into their land and there have been several police complaints also. They have alleged that accused No.3 is a Bond Writer and all along the day on 27.07.2012, he was in the office of Sub-Registrar. Therefore there is considerable force in the arguments of the learned counsel for the accused that it is concocted case to force the accused to part with encroached property of the accused. Under these



circumstances, this court comes to the conclusion that it is not safe for this court to rely on the evidence of P.W.1 to 4 and 5 and as such the accused are to be acquitted on benefit of doubt. Hence the points No.1 and 2 raised above are answered in the negative.”

13. On re-appreciation, re-examination and reconsideration of the entire evidence on record and keeping in mind the decisions of the Hon’ble Apex Court stated supra, I do not find any legal and factual error in the impugned judgment of acquittal passed by the Trial Court. Accordingly, I answer point No.1 in ***affirmative***.

Regarding Point No.2 :

14. For the aforesaid reasons and discussion, I proceed to pass the following:

ORDER

- i) The appeal is ***dismissed***.

Sd/-
(G BASAVARAJA)
JUDGE