



CNR: KAHC010195622019

NC: 2026:KHC:42433-DB
CRL.A No. 612 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.612 OF 2019 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY KERAGODU POLICE
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...APPELLANT

(BY SRI SUHAS GOWDA M., H.C.G.P.)

AND:

Digitally signed
by
SHARADAVANI
B

Location: High
Court of
Karnataka

1. SRI KRISHNA
S/O. LATE CHIKKEGOWDA
AGED ABOUT 45 YEARS
2. MANGALAMMA
W/O. KRISHNA
AGED ABOUT 30 YEARS

BOTH ARE R/AT
KELAGALA KOPPALU VILLAGE
(KARADI KOPPALU), KERAGODU HOBLI
MANDYA TALUK

...RESPONDENTS

(BY SRI S. B. HALLI, ADVOCATE FOR R-1 AND R-2)



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THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C. BY THE STATE P.P. FOR THE STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER DATED 29.06.2018 PASSED IN CRL.A.NO.26/2018 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, MANDYA, ALLOWING THE APPEAL FILED BY THE ACCUSED/RESPONDENTS NOS.1 AND 2 AND ACQUITTING THEM FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 504, 323, 324, 326, 355 AND 506 R/W 34 OF IPC AND THE SPP/STATE PRAYS THAT THE ABOVE ORDER MAY BE AND SET ASIDE AND ETC.

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)

Heard learned High Court Government Pleader appearing for the appellant - State and also the learned counsel appearing for respondent Nos.1 and 2.

2. This appeal is filed against the Judgment of acquittal passed by the appellate Court in Crl.A.No.26/2018, reversing the judgment of the trial Court, convicting the accused and sentencing the accused.



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3. The factual matrix of the case of prosecution before the trial Court is that:

a) The witnesses PW1 and PW2 are husband and wife and accused Nos. 1 and 2 are also husband and wife. All of them are the residents of Kalagala Koppal Village, Keragpdu Hobli, Mandya Taluk. Accused No.1 and PW1 are cousins. That on 28.05.2014, at about 08.30 a.m., accused Nos. 1 and 2, in front of the house of PW1, were abusing PW2 in a filthy language, and when PW1 asked accused Nos.1 and 2 as to why they are abusing PW2, then accused Nos. 1 and 2 dragged PW1 and PW2 by holding hair-tuft. Accused No.1 assaulted PW1 all over the body with broomstick and with stone and right forearm. Accused Nos. 1 and 2 also threatened PW1 and PW2 of murdering them. This incident was taken place in the presence of Chikkegowda and Shankara, who were present and both of them have pacified the incident. PW1 had sustained bleeding injury on his right forearm and



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thereafter went to the District Hospital, Mandya and on the same day taken the treatment.

b) The police have registered the case based on the complaint given on the next day, i.e., on 29.05.2024 at about 05.00 p.m. and complaint was marked as Ex. P1 and jurisdictional police have registered the case in Crime No. 125/2014 under Sections 504, 323, 324, 506, 506 r/w Section 34 of IPC. The CW8-head constable also visited the spot and conducted spot mahazar on the same day in terms of Ex.P2 in the presence of PW5 and PW6 and seized the broomstick and also stone produced by PW1.

c) The Investigating Officer had collected the Wound Certificate as per Ex.P5 and after completion of the investigation filed the charge sheet against accused Nos. 1 and 2. The accused persons were secured and they did not plead guilty and claimed the trial and hence the prosecution examined witnesses as PW1 to PW9 and also got marked documents as per Ex.1 to Ex.7. The accused



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were subjected to Section 313 of Cr.P.C., statement and did not lead defence evidence. The trial Court having considered the evidence of PW1 and PW2 and also the evidence of the doctors -PW8 and PW9 and other witnesses who have not supported the case of prosecution, convicted accused Nos. 1 and 2 for the aforementioned offences. The same was challenged before the appellate Court.

d) The appellate Court, having reassessed both oral and documentary evidence, doubted the very case of prosecution and comes to the conclusion that if really accused Nos.1 and 2 assaulted the complainant with stone and broomstick, the injured/complainant would have sustained the external injuries. As per the medical evidence, except the fracture, no other external injuries are found and so also the Wound Certificate discloses that when the injured/complainant went to the hospital mentioned the name of only one of the accused and not



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mentioned the name of the other accused. Apart from that, it comes to the conclusion that though MO.1 and MO.2 are seized in the presence of PW5 and PW6 and both of them have not supported the case of prosecution and very seizure of the articles is also not proved and with regard to the causing of threat is also concerned, no material witnesses are produced. According to the prosecution, PW3 and PW4 have witnessed the incident but they have also not supported the case of prosecution and only relied upon the evidence of PW1 and PW2 and the same does not inspire the confidence of the appellate Court and benefit of doubt goes in favour of the accused persons in respect of the assault alleged to have been made with stone and fracture of right forearm of PW1. The appellate Court acquitted the accused persons and hence, the present appeal is filed before this Court.

4. Mr.Suhas Gowda, learned HCCP would vehemently contend that the appellate Court committed



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an error in reversing the judgment of the trial Court. He would vehemently contend that appellate Court while acquitting the accused persons, has not at all taken into consideration the seriousness of the alleged offences and also the role played by the respondent-accused Nos.1 and 2 herein and particularly when the injured had sustained the fracture, that too on account of the act done by accused Nos.1 and 2. The appellate Court made much of the minor discrepancies in the evidence of prosecution witnesses and learned Sessions judge ought to have noticed that such discrepancies are quite natural and they do not go to the very root of the case of the prosecution. The learned Sessions judge also failed to draw proper inference from the information produced on behalf of the prosecution, which is perverse and hence, he prays that this Court has to reverse the judgment of the appellate Court and restore the conviction and sentence passed by the trial Court and prays for allowing this appeal.



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5. Per contra, learned counsel appearing for the respondent-accused Nos. 1 and 2 would submit that the trial Court committed an error in convicting and sentencing the accused Nos.1 and 2 and failed to take note of the fact that both of them are neighbors and they are having an ill-will with each other and hence a false case is registered against the accused. The appellate Court rightly reversed the judgment of the trial Court.

6. Learned counsel for the respondent - accused Nos. 1 and 2 further submits that not only doubt the very incident is concerned and also taken note of that only interested witnesses, who are PW1 and PW2 and there are material discrepancies and contradictions in their evidence. The trial Court also took note of the evidence of PW3 and PW4 who claims to be the eyewitnesses and their evidence is not supported the case of prosecution and apart from that, with regard to the seizure of MO1 and MO2 is also doubtful. The witnesses PW5 and PW6 have



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not supported the case of prosecution and interference by Court does not arise and he prays for dismissal of this appeal.

7. Having heard the learned HCGP appearing for the appellant-State and learned counsel appearing for the respondent-accused Nos. 1 and 2, so also perused the entire material available on record.

8. The points that would arise for consideration of this Court are:

"i) Whether the first appellate Court committed an error in reversing the finding of the trial Court in acquitting the accused persons, In coming to the conclusion that case of the prosecution itself is doubtful and whether it requires interference of this Court?

ii) What order?"

9. Having heard the respective counsel, we have perused the material available on record, particularly the evidence of PW1 and PW2 and also the other witnesses. Before going to the aspect of considering the evidence of



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PW1 and PW2, in view of the divergent findings, this Court has to take note of the medical evidence.

10. On perusal of the medical evidence of the doctors- PW8 and PW9, who have categorically admitted that if a person fell down, there is a chance of sustaining the injury of fracture and no doubt there is a fracture and Ex.P5 also discloses the injury is serious in nature. Ex.P7 is the X-ray report. The specific question was put to the PW8 and PW9 that if a person suddenly slipped and while falling on the ground, if he put forwards his right hand there is a chance of fracture. No doubt, when the injured went to the hospital at 12.30 and incident was taken place in the morning at 08.30 am, went and informed that he had sustained the injury on account of assault made by Krishnegowda. It is also to be noted that the injured has not stated whether the assault was made by both the accused Nos. 1 and 2.



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11. Apart from the above, when the specific allegation is made in the complaint that injured was assaulted with stone and broomstick, no any external injuries are found and the same is also taken note of by the appellate Court while reversing the judgment of conviction and sentence passed by the trial Court. Particularly in its judgment at Paragraph No.17, it has taken note that no external injury found on PW1, which is seen from Wound Certificate and the oral evidence of PW8 and PW9 i.e. doctors who have been examined before the trial Court.

12. It is also the reason of the appellate Court that if the version of PW1 and PW2 is believed that injury found on right forearm was caused with stone, definitely there would be some external abrasion or laceration on the right forearm. The medical evidence is also silent about the abrasion or laceration on the right forearm of PW1 and hence comes to the conclusion that the oral evidence of



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PW1 and PW2 does not corroborate with the medical evidence.

13. The discrepancy in the medical evidence emanates doubt about the alleged injury sustained by PW1, which was due to assault with stone. No doubt, the stone and broomstick were also seized in the presence of PW5 and PW6, but they have not supported the case of prosecution. When the evidence of PW1 and PW2 is not corroborating with the medical evidence of PW8 and PW9, who have spoken about the same that too when there were no other injuries, the appellate Court had rightly come to the conclusion that it is not safe to apt on the interested testimony of PW1 and PW2 and though it is stated that other witnesses, PW3 and PW4 were also present at the time of occurrence of the incident and witnessed the same and their evidence also does not support the case of prosecution and hence rightly appellate Court held that evidence of PW1 and PW2 is



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unworthy of credit and the same will not inspire the confidence of this Court to believe the case of the prosecution.

14. It is also important to note that accused Nos. 1 and 2 and also the PW1 and PW2 are the neighbors and the same is taken note of in Paragraph Nos. 17, 18, 19 of the judgment of the appellate Court in coming to the conclusion that materials available on record is not cogent evidence before the Court and not believed the case of the prosecution.

15. The appellate Court also took note of the fact that there was a delay and incident took place on 28.05.2014 in the morning at about 08.30 a.m., and also the injured went to the hospital on the very same day and it is not the case of the injured that he was admitted to the hospital as a inpatient. But he did not lodge any complaint till the next day i.e. on 29.05.2024 at 05.15 p.m. and there is no any explanation for delay of



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one and a half days in lodging the complaint. There is no explanation offered by the prosecution with regard to the delay and the same is also taken note of by the appellate Court. The trial Court while considering the material on record carried away with the evidence of PW1 and PW2. Even though other witnesses of seizure mahazar witnesses PW5 and PW6 who have not supported the case of prosecution and believed the evidence of PW1 and PW2 and fails to take note of discrepancies in the evidence of PW1 and PW2 as well as medical evidence and medical evidence is also very clear that except the fracture and no any external injuries, no other injuries were recovered and Ex.P5 also not discloses anything about other injuries. But the allegation is that both accused Nos. 1 and 2 assaulted all over the body of the injured. But no any abrasions or laceration injuries are not found on the complainant-PW1 and hence, we do not find any error on the part of the appellate Court in reversing the judgment and rightly comes to the conclusion that evidence of PW1 and PW2



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does not inspire its confidence to convict and sentence the accused persons and rightly reversed the same and hence there are no grounds are made out to for this Court to interfere with the findings of the first appellate Court and the error on the part of the trial Court was taken note of by the appellate Court while appreciating the evidence. Hence the points framed above are answered in the ***negative***.

16. 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

BSV
List No.: 1 Sl No.: 17