



CNR: KAHC010256162019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF SEPTEMBER, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1536 OF 2019 (A)

BETWEEN:

THE STATE - THROUGH POLICE SUB-INSPECTOR,
PUTTUR TOWN POLICE STATION,
PUTTUR.

REPRESENTED BY THE
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BENGALURU-1

...APPELLANT

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

AND:

1. HARIPRASAD SHETTY,
S/O. LATE BABY SHETTY,
AGED ABOUT 34 YEARS,
R/AT NELLIKATTE HOUSE,
PUTTUR KASABA VILLAGE,
PUTTUR TALUK-574 201.
2. SHARATH KUMAR ALVA,
S/O. SANKAPPA ALVA,
AGED ABOUT 31 YEARS,

Digitally signed
by
SHARADAVANI
B



Location: HIGH
COURT OF
KARNATAKA



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R/AT KOORELU HOUSE,
ARYAPU VILLAGE AND POST,
PUTTUR TALUK-574 201.

3. PRATHEEN K. S.,
S/O. LATE SUNDARA NAYAK,
AGED ABOUT 36 YEARS,
R/AT KABBINAHITHILU HOUSE,
ARYAPU VILLAGE AND POST,
PUTTUR TALUK-574 201.

...RESPONDENTS

(BY SRI S. RAJASHEKAR, ADVOCATE FOR R-1 TO R-3)

THIS CRL.A. IS FILED UNDER SECTION 378(1) AND (3) OF CR.P.C PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE IMPUGNED JUDGMENT AND ORDER DATED 31.01.2019 PASSED BY THE HON'BLE COURT OF V ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., DISTRICT, MANGALURU SITTING AT PUTTUR D.K. DISTRICT IN S.C.NO.5015/2016 ACQUITTING THE ACCUSED/RESPONDENTS FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 323, 326, 504 AND 307 READ WITH SECTION 34 OF IPC AND SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 31.01.2019 PASSED BY THE HON'BLE COURT OF V ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., DISTRICT, MANGALURU SITTING AT PUTTUR D.K. DISTRICT IN S.C.NO.5015/2016 ACQUITTING THE ACCUSED/RESPONDENTS FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 323, 326, 504 AND 307 READ WITH SECTION 34 OF IPC AND ALSO CONVICT AND SENTENCE THE ACCUSED/RESPONDENTS FOR THE CHARGED OFFENCES PUNISHABLE UNDER SECTIONS 323, 326, 504 AND 307 READ WITH SECTION 34 OF IPC.

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



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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 Sri. Mohammed Ayub Ali, learned Addl. S.P.P. appearing for the appellant-State and Sri. S Rajashekar, learned counsel appearing for respondents.

2. This appeal is filed against the judgment of acquittal passed in S.C.No.5015/2016 on the file of V Additional District and Sessions Judge, D.K.District, Mangaluru, sitting at Putturu, dated 31.01.2019 and prays this Court to set aside the judgment of acquittal and convict and sentence the accused.

3. The factual matrix of the case of the prosecution is that on 06.06.2016 at about 8.45 p.m., in Cellzone Mobile Shop, situated at main road in Putturu Town, all the accused persons with common intention raised quarrel with P.W.1-complainant, abused in a filthy language and also accused Nos.1 and 3 assaulted P.W.1 by hands and accused No.2



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beaten P.W.1 on his chest by hands and accused No.3 beaten P.W.1's right shoulder by hands and crushed him by legs and caused simple hurt to P.W.1 and also accused No.2 assaulted on head, face and back of P.W.2 with knife and caused grievous injury to P.W.2 and also an attempt was made to take away the life of P.W.2 and hence, invoked the offences punishable under sections 504, 323, 326, 377 read with Section 149 of IPC. The accused who were secured before the Trial Court, did not plead guilty and claimed trial. Hence, the prosecution examined witnesses as P.W.s.1 to 16, got marked documents at Exs.P.1 to 22(a) and the documents Exs.D1 and D2 are confronted to P.W.s.2 and 3. Material objects i.e., a knife and blood stained shirt are also marked as MOs. 1 and 2.

4. The Trial Court having considered the oral and documentary evidence comes to the conclusion that the evidence of prosecution does not inspire the confidence of the Court in coming to the conclusion that there was inconsistency in the evidence of P.W.s.1 and 2 and also very presence of P.W.3 that he is an eyewitness is also disbelieved considering the answers elicited from the mouth of P.W.3. So also in



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respect of P.Ws.4 and 8, the prosecution who claims that these witnesses have witnessed the incident that they have seen accused persons leaving the spot holding knife in their hand through motorcycles and their evidence also cannot be believed since P.W.1 has given an admission that both of them came to the spot of occurrence of the alleged incident after 15 minutes, but claims that PW.3 came to the spot. Further, the Trial Court comes to the conclusion that the wound certificates issued as per Exs.P.17 and 18 discloses the nature of injuries and one injury is grievous as per Ex.P.18 is mentioned in respect of the injured is concerned. But comes to the conclusion that wound certificate itself is doubtful though it is contended that the same was issued by Dr. S.R.Bhandary and the same was not in his handwriting and it is identified that he has signed the same. The other doctor who has been examined before the Trial Court is P.W.14 is also a treated doctor but the Trial Court comes to the conclusion that he is not the treated doctor and his evidence cannot be believed. Over all considering the material on record comes to conclusion that P.Ws.1 and 2 are brothers and they are interested witnesses and P.Ws.4 and 8 belong to



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the same community and are relatives of the complainant. Hence not accepted their evidence, even though as a circumstantial witnesses and comes to the conclusion that benefit of doubt goes in favour of the accused persons and acquitted them.

5. Being aggrieved by the judgment of acquittal, this present appeal is filed by the State.

6. The main contention of the learned Additional SPP appearing for the appellant/State is that the incident was taken place opposite to shop of P.W.3. The learned counsel would contend that the wound certificates Exs.P.17 and 18 are very clear that immediately after the incident, they were taken to the hospital and they were treated and there was no any delay and wherein also they have categorically mentioned the names of the assailants i.e., accused Nos.1 to 3. The injured witnesses P.W.1 and P.W.2 deposed before the Court that the incident was taken place and these accused persons have assaulted and the same was witnessed by P.W.3. The evidence of P.W.1 to P.W.3 inspires the confidence of the Court. The evidence of P.W.3 is also very clear that he also witnessed the incident.



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The learned counsel also contend that the evidence of P.W.4 and P.W.8 is also very clear that accused No.2 went with knife M.O.1 and this evidence also corroborates the case of the prosecution. The learned counsel would vehemently contend that the Trial Court committed an error and minor inconsistencies are magnified by the Trial Court in disbelieving the case of the prosecution. The learned counsel would contend that the Trial Court committed an error in appreciating the evidence available on record in a proper perspective, which has resulted in perversity in giving the finding and it leads to miscarriage of justice and hence, this Court can exercise the appellate jurisdiction and re-appreciate the evidence available on record in a proper perspective.

7. Per contra, the counsel for respondent Nos.1 to 3/accused would vehemently contend that the Trial Court has in detail taken note of the document of Ex.P.1 complaint. Ex.P.1 does not disclose the very presence of P.W.3, since the prosecution relies upon the evidence of P.W.3 as an eye witness. The learned counsel would contend that the Trial Court made an observation that only in further statement of P.W.1,



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the name of P.W.3 is mentioned and discrepancy was also taken note of. The learned counsel would contend that when the prosecution relies upon the evidence of P.W.4 and P.W.8, the very admission on the part of P.W.1 is very clear that they came to the spot after 15 minutes. However, P.W.1 says that P.W.3 was present. The learned counsel would contend that there was a clear admission on the part of P.W.3 that the door of his shop was closed since the shop was having AC facility and nothing was visible outside the shop and all these admissions of P.W.3 was taken note of by the Trial Court and comes to the conclusion that the very presence of P.W.3 is doubtful. The Trial Court taken note of the wound certificates at Exs.P.17 and 18, wherein the names of the assailants are mentioned, but the very wound certificates are doubtful, since the said Dr. S.R. Bhandary was not alive and these documents are also not in the handwriting of the said Dr. S.R.Bhandary. Hence, the Trial Court doubted the very documents of Exs.P.17 and 18, since the same was not in the handwriting of the said Dr. S.R.Bhandary. The learned counsel would vehemently contend that when there are inconsistencies, the same is also



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pointed out by the Trial Court while considering the evidence of P.W.1 and P.W.2. The learned counsel would contend that even at the time of assaulting P.W.1, P.W.2 was not there at the spot. But only it is contended that when P.W.2 came to the spot, he was also assaulted with knife. There are inconsistencies in the evidence of P.W.1, P.W.2 and P.W.3 and so also the medical evidence is also not believable, since P.W.14 who has been examined in support of the medical evidence also has not treated the injured persons and the same is taken note of by the Trial Court and hence, it does not require interference. The learned counsel also contend that the benefit of doubt is extended acquitting the accused persons treating them as innocent and even if there are two views possible, the benefit of doubt goes in favour of the accused and hence, this Court cannot interfere by exercising the appellate power.

8. Having heard the learned Additional SPP appearing for the appellant/State and the learned counsel for respondent Nos.1 to 3 and having re-appraised both oral and documentary



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evidence, the points that would arise for the consideration of this Court are:

- (i) Whether the Trial Court committed an error in acquitting the accused persons and whether the reasoning of the Trial Court is perverse which leads to miscarriage of justice and whether the same requires interference of this Court?
- (ii) What order?

Point No.(i):

9. Having heard the respective learned counsel and also on perusal of the material available on record, the incident was taken place at 8.45 p.m. There is no dispute with regard to the case of the prosecution that the incident was taken place opposite to the shop of P.W.3 i.e., in the main road of Puttur town. The material available before the Court also discloses with regard to the motive is concerned that, P.W.1 was running a chit business and accused No.3 was due for an amount of Rs.1,80,000/-. The Court has to take note of when there was a direct evidence of P.W.1 and P.W.2, who are the injured witnesses, the motive is not significant. But, the Court has to



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consider whether the evidence of P.W.1 and P.W.2 inspires the confidence of the Court. P.W.1 and P.W.2 are the brothers. The Court has to take note of that at the time of assaulting P.W.1, P.W.2 was not present. P.W.2 came to the spot on the information given by P.W.1 over the phone. But, the Investigating Officer did not collect the CDR in respect of P.W.1 making call to P.W.2 and P.W.2 rushed to the spot. It is also the case of the prosecution that P.W.3 had witnessed the incident and having considered the evidence of P.W.3 and the admission given by P.W.3, it is very clear that it is not possible for him to witness the incident, since the door of his shop was closed as it was having AC facility. Hence, the Trial Court considering the evidence of P.W.3, comes to the conclusion that P.W.3 was not an eyewitness to the incident. Apart from that, the Trial Court taken note of Ex.P.1 complaint, wherein the name and presence of P.W.3 is not stated and also taken note of that the complaint runs to about three pages. But during the course of further statement of P.W.1, the very presence of P.W.3 is also not noted and hence, disbelieved the case of the prosecution.



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10. No doubt, there are wound certificates at Exs.P.17 and 18 and it discloses that one among the two injured persons has sustained grievous injuries and he was an inpatient. Having considered the evidence available on record, particularly the medical evidence, the doctor who treated both the injured at 9.30 p.m. and 9.50 p.m. in the same night, mentioned the name of the assailants in the wound certificates. But during the course of cross-examination, it is elicited that the hand writing in the wound certificates at Exs.P.17 and 18 are not of Dr. S.R.Bhandary, except his signature and hence, the Trial Court disbelieved the very documents of Exs.P.17 and 18. Apart from that, the prosecution relies upon the evidence of P.W.14 doctor, who comes before the Court and deposes that he also treated the injured persons. The Trial Court also taken note of the very admission on the part of the doctor P.W.14 and in his cross-examination he admits that Dr. S.R. Bhandary had signed Ex.P.15 opinion letter, which was written by some other person. Hence, it is clear that only it was signed by Dr.S.R.Bhandary and the same is not in his handwriting. He admits that Dr. S.R.Bhandary used to issue wound certificates



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to injured persons in other hospitals apart from Chetana Hospital, Putturu. He categorically admits that he has not produced any documents to show that he has been working as a visiting doctor in the said hospital. It is also his admission that in order to give opinion regarding the injuries caused to any injured person from any object, it is necessary to consider the depth of penetration, nature of edges of the injury, direction of the wound, dimension of the wound and angle of the wound. He admits that in Ex.P.18 wound certificate mentioned the size of the injury and nature of the injury. Depth of the injury and angle of the wound are not mentioned in the said wound certificate. The injury No.4 mentioned in the said wound certificate was caused below the left side axilla.

11. Having taken note of the answers elicited from the mouth of P.W.14 during the course of cross-examination, it is very clear that though he says that he has treated the injured Ganesh Acharya and Ravichandra Acharya in the said hospital on 06.06.2016, for having he treated, nothing is placed on any record, not even treatment records of the inpatient. When such being the case, when he was not the author of the document



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and though the author was Dr. S.R.Bhandary, the same was also not in the handwriting of the said doctor. In view of the admission that Dr. S.R.Bhandary used to issue wound certificates to the injured persons in other hospitals apart from Chetana Hospital, the Trial Court comes to the conclusion that the very documents of Exs.P.17 and 18 cannot be believed. It is the evidence of P.W.1 that he might have given the complaint that he was inflicted injury abruptly on the face and also on the back. But on perusal of the wound certificate of P.W.1, there are no injuries on the face or on the back. Apart from that, the document of Ex.P.15 is also issued by Dr. S.R.Bhandari and only the opinion is given that the injuries mentioned in the wound certificate also could be caused by the weapon M.O.1. Having taken note of all these material contradictions and also the evidence available on the record which does not inspire the confidence of the Court, the Trial Court rightly extended the benefit of doubt in favour of the accused.

12. The Trial Court also taken note of the evidence of the doctor P.W.9 Geetha Lakshmi, Senior Scientific Officer,



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RFSL Mangalore, who conducted the serology test and issued Ex.P.11 RFSL report and also serology report. In the cross-examination, she admits that generally 'O' blood group is common in the people and she has stated that she has not examined whether the said 'O' blood group is positive or negative. Exs.P.21 and 22 are the blood reports of injured persons Ganesh Acharya and Ravichandra Acharya issued by Chetana Hospital, Puttur, and the same appears that blood group of Ganesh Acharya is 'B' positive and blood group of Ravichandra Acharya is 'O' positive and both are different blood groups.

13. Having reassessed both oral and documentary evidence available on record, the Trial Court taken note of that the very presence of P.W.3 is doubtful considering the contents of Ex.P.1 and also further statement. The learned Additional SPP appearing for the appellant/State relies upon the evidence of P.W.4 and P.W.8 and the very admission of P.W.1 is very clear that both of them came to the spot after 15 minutes of the incident. The very statement of P.W.4 and P.W.8 also cannot be relied upon because both of them say that they



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witnessed the accused persons leaving the spot in two wheeler holding the knife. Apart from that, they are the relatives and also they belong to the very same community. Having reassessed both oral and documentary evidence, the Trial Court has given the benefit of doubt in favour of the accused persons and even the law is settled that if two views are possible, that should go in favour of the accused only. While reverting the acquittal into conviction, there must be a positive evidence before the Court, which shows the very role of the accused persons and in the evidence of P.W.1 and P.W.2, there are material contradictions and P.W.2 was also not present and his evidence was also not accepted by the Trial Court. When such being the case, this Court cannot find any perversity in the finding of the Trial Court and the same has not led to any miscarriage of justice. The Apex Court in its judgment in the case of **MALLAPPA AND OTHERS v. STATE OF KARNATAKA** reported in **(2024) 3 SCC 544**, held that, in case of perversity in giving the finding as well as miscarriage of justice, under such circumstances only the Court can reverse the same and otherwise if two views are possible also, the benefit goes in



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favour of the accused person. We do not find any such perversity and miscarriage of justice in considering the evidence by the Trial Court. The Trial Court having considered the material on record acquitted the accused persons and no ground is made out to reverse the same. Hence, we answer the point in the negative.

Point No.(ii):

14. 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/MD
List No.: 1 Sl No.: 13