



CNR: KAHC010268892018

NC: 2026:KHC:45868-DB
CRL.A No. 1503 of 2018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF AUGUST 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1503 OF 2018

BETWEEN:

1. SRI. T.N. VENKATESHAPPA
S/O NARAYANAPAP
AGED ABOUT 56 YEARS
THIKALAGHATTA VILALGE
VEMGAL HOBLI
KOLAR TALUK AND DISTRICT.

...APPELLANT

(BY SMT. P.V. KALPANA, *AMICUS CURIAE*)

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by DEVIKA M

Location: HIGH
COURT OF
KARNATAKA

AND:

1. STATE OF KARNATAKA
REP. BY SUB-INSPECTOR OF POLICE
VEMAGAL POLICE STATION
KOLAR TALUK, KOLAR DISTRICT
REP. BY THE STATE PUBLIC PROSECUTOR
HON'BLE HIGH COURT OF KARNATAKA
BENGALURU-560001.
2. THIMMARAYAPPA
S/O CHIKKA MUNISHAMAPPA
AGED ABOUT 42 YEARS



NC: 2026:KHC:45868-DB
CRL.A No. 1503 of 2018

CNR: KAHC010268892018

3. VENKATESHAPPA
S/O NARAYANASWAMY
AGED ABOUT 37 YEARS
4. ANJINAPPA
S/O THIMMARAYAPPA
AGED ABOUT 37 YEARS
5. SRIRAMA
S/O THIMMARAYAPPA
AGED ABOUT 35 YEARS
6. THIMMARAYAPPA
S/O KITTAPPA
AGED ABOUT 62 YEARS
7. BETAKOTE SRINIVASA
S/O MUNISHAMAPPA
AGED ABOUT 50 YEARS
8. VENKATESHAPPA
S/O ACHAPPA
AGED ABOUT 59 YEARS
9. SHARADAMMA
W/O NARAYANAMMA
AGED ABOUT 45 YEARS
10. VENKATALAKSHMAMMA
W/O BETTAKOTE SRINIVASA
AGED ABOUT 50 YEARS
11. MUNIYAMMA
W/O VENKATESHAPPA
AGED ABOUT 42 YEARS
12. AMARAVATHI
W/O THIMMARAYAPPA
AGED ABOUT 45 YEARS



CNR: KAHC010268892018

NC: 2026:KHC:45868-DB
CRL.A No. 1503 of 2018

13. NARAYANAMMA
W/O MUNE GOWDA
AGED ABOUT 62 YEARS
14. CHINAKKA
W/O THIMMARAYAPPA
AGED ABOUT 62 YEARS
15. NARAYANASWAMY
S/O ACHAPPA
AGED ABOUT 62 YEARS
16. LAKSHMIAHA
S/O THIMMARAYAPPA
AGED ABOUT 33 YEARS
17. AMARANATH
S/O NARAYANASWAMY
AGED ABOUT 31 YEARS
18. RAJESHA
S/O NARAYANASWAMY
AGED ABOUT 32 YEARS
19. RAJAMMA
W/O NARAYANASWAMY
AGE ABOUT 57 YEARS
20. CHIKKAMUNISAHAMAPPA
W/O NARAYANASWAMY
AGE ABOUT 67 YEARS
21. MUNIRAJU
S/O VENKATESHAPPA
AGED ABOUT 27 YEARS

ALL ARE
RESIDING AT
THOKALAGHATTA VILLAGE



CNR: KAHC010268892018

NC: 2026:KHC:45868-DB
CRL.A No. 1503 of 2018

VEMGAL HOBLI,
KOLAR TALUK-563137.

...RESPONDENTS

(BY SRI. SUHAS GOWDA M., HCGP FOR R1;
SRI. M.R.NANJUNDA GOWDA, ADVOCATE FOR R2 TO R5
AND R7 TO R19 AND R21;
APPEAL AGAINST R6 AND R20 IS ABATED
VIDE ORDER DATED 24.07.2025)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(4) OF CR.P.C PRAYING TO SETTING ASIDE THE IMPUGNED JUDGMENT OF ACQUITTAL DATED 02.05.2018 PASSED BY THE LEARNED I ADDITIONAL SESSIONS JUDGE, KOLAR, IN S.C.NO.90/2011 ACQUITTING THE ACCUSED NO.1 TO ACCUSED NO.6 AND A8 TO A21 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 147, 148, 188, 504, 324 AND 307 R/W SECTION 149 OF IPC.

THIS APPEAL COMING ON FOR FINAL 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 the Amicus Curiae appointed on behalf of the appellant vide order dated 11.08.2026 and so also learned counsel appearing for respondent Nos.2 to 5 and 7 to 19.

2. This appeal is filed against the judgment of acquittal passed against 21 accused persons praying this Court to



NC: 2026:KHC:45868-DB
CRL.A No. 1503 of 2018

convict the accused persons for the offences invoked against them.

3. The factual matrix of case of the prosecution is that on 22.07.2010 at 11.30 a.m. in the vacant Site No.69, measuring 45 x 30 feet situated at Thokalaghatta Village, accused Nos.1 to 6 and 8 to 21 in furtherance of common object formed themselves into an unlawful assembly armed with deadly weapons like club, iron rod and ramrod and disobeyed the directions of the Court order passed in Execution No.22/2010 and abused C.W.1 to C.W.4 in filthy language and in furtherance of common object, assaulted C.W.1 to C.W.3 with club, ramrod and iron rod and caused injury to C.W.1 to C.W.3 and so also made an attempt to take the life of C.W.1 to C.W.3. Hence, the Police have registered the case and investigated the matter and invoked the offences punishable under Sections 143, 147, 148, 188, 323, 504, 324 and 307 read with Section 149 of IPC. The accused persons were secured before the Trial Court and they did not plead guilty and claimed the trial.



CNR: KAHC010268892018

4. Hence, the prosecution examined the witnesses P.W.1 to P.W.22 and got marked the documents Exs.P1 to P14. and got marked M.Os.1 to 7. The accused have got marked the documents Exs.D1 to D10. The Trial Court more particularly, considered the evidence of P.W.1 to P.W.4. According to the prosecution, P.W.1, P.W.2 and P.W.4 have sustained the injuries and P.W.3 was very much present at the time of incident along with P.W.1, P.W.2 and P.W.4 and so also, mainly relies upon the evidence of P.W.14 to P.W.17, who were also present at the time of the incident, since Police protection was given to P.W.1, P.W.2 and P.W.4 in connection with civil dispute between the parties.

5. The Trial Court having assessed both oral and documentary evidence, particularly considering the evidence of witnesses P.W.1, P.W.2 and P.W.4, found that there are inconsistencies in the evidence of these witnesses and also considered the evidence of the Doctors, who have been examined as P.W.20 and P.W.21. The Trial Court considering that there was civil dispute between the parties, comes to the conclusion that the very place of incident itself is doubtful



CNR: KAHC010268892018

considering the documents of Ex.P3, Ex.D9 and also the statement of P.W.1, particularly considering the evidence of P.W.1 to P.W.4 is concerned in paragraph No.29 and answers elicited during the course of cross-examination from the mouth of P.W.1 to P.W.4 i.e., Exhibit 'D' series. As per Exs.D1 and D2, the statement of P.W.1, it reveals that overt act against the accused is contradictory to the evidence of P.W.1 and so also Exs.D3 and D4, the statement of P.W.2 reveals that accused Mune Gowda assaulted with ramrod on the nose of P.W.2- Lakshmamma. But, P.W.1 has deposed that accused Narayanaswamy assaulted with ramrod on the nose of Lakshmamma and P.W.2 has deposed that accused Narayanaswamy assaulted with iron rod on her nose. The material contradictions were taken note of by the Trial Court considering the evidence of P.W.1 and P.W.2 with respect to the overt act. So also, Ex.D5 is the portion of statement of P.W.3-Srinivasappa which states that no one had assaulted him and he did not sustain any injury in the incident. The Trial Court also taken note of the evidence of P.W.14 to P.W.17 in paragraph No.35, wherein they have admitted that their



CNR: KAHC010268892018

statements have been recorded two months after the incident and they were unable to identify the accused persons. Hence, the Trial Court comes to the conclusion that evidence of P.W.14 to P.W.17 also will not come to the aid of the prosecution.

6. The Trial Court also in paragraph No.36 comes to the conclusion that P.W.20 and P.W.21, Doctors, who have been examined are not the treated Doctors and they have only deposed about the nature of injuries sustained by P.W.1, P.W.2 and P.W.4 as mentioned in the wound certificates which are marked as Exs.P12 to P14. The evidence of P.W.20 discloses that he is not the author of the wound certificate Ex.P12. In the cross-examination of P.W.21, he has stated that wound certificate at Exs.P13 and 14 were issued on 03.09.2010 and the injuries mentioned in Ex.P14 are not likely to be caused with blunt object; injuries mentioned in Ex.P3 is less likely to be caused with blunt object. The evidence of P.W.21 also reveals that he has not personally treated P.W.2 and P.W.4. Hence, the evidence of P.W.20 and P.W.21 is also not helpful to the prosecution to state the nature of injuries sustained by P.W.1, P.W.2 and P.W.4.



7. The Trial Court also in paragraph No.37 taken note with regard to the discrepancies in the spot mahazar Ex.P3 and so also Ex.D9-charge sheet in Crime No.144/2010 as well as the place described i.e., near the house of Kittappa. As per the evidence of P.W.1, the place of occurrence is in the vacant Site No.69 and hence, comes to the conclusion that very place of occurrence is also doubtful. The judgment of the Apex Court was also taken note that when the place of occurrence itself has not been proved, it would not be proper to accept the prosecution version.

8. Having taken note of all these material on record, the Trial Court comes to the conclusion that though P.W.1, P.W.2 and P.W.4 have sustained injuries which is evident from Exs.P12 to P14 and also taken note of admission on the part of P.W.1 that at the time of the incident, she was in the house and the same creates doubt. Hence, acquitted the accused.

9. The Amicus Curiae appearing on behalf of the complainant-appellant would vehemently contend that even though Court comes to the conclusion that there was no intention to take away the life of P.W.1, P.W.2 and P.W.4 and



the same is missing, but the fact is that they have all sustained injuries and Exs.P12 to P14 supports the case of the prosecution. The evidence of P.W.1, P.W.2 and P.W.4 is consistent. The counsel also would vehemently contend that P.W.15 and P.W.16 have also deposed before the Court that the incident has taken place in their presence and Police witnesses were also present at the spot. The counsel also would submit that the evidence of the Doctors viz., P.W.20 and P.W.21 is very clear and they have spoken with regard to Exs.P12 to P14 that the injured P.W.1, P.W.2 and P.W.4 have taken treatment with the respective Doctors and the Doctors have given evidence before the Court based on the wound certificate. The counsel also brought to notice of this Court that the other Police personnel have also sustained injuries and though those documents are not marked. But, counsel would contend that a separate case is registered for preventing the Police officials from discharging their duty in C.C.No.151/2011.

10. Per contra, learned counsel appearing for respondent Nos.2 to 5 and 7 to 19 would submit that when the same incident has taken place, there cannot be two cases. But,



CNR: KAHC010268892018

admittedly, two cases are registered. Even, if there is abuse of Police officials and prevented them from discharging their duties in the particular incident while invoking the offences against the accused, ought to have invoked the very same offence that the accused persons are coming in the way of Police officials in discharging their duty and there cannot be two cases. The counsel also would submit that the evidence of P.W.1, P.W.2 and P.W.4 is that all the accused persons who were present have assaulted and particularly, according to these witnesses, 11 persons have assaulted and found only 5 injuries and those injuries are also simple in nature and those injuries not corresponds with the weapons which were used according to the prosecution witnesses. The counsel also would submit that there was a civil dispute pending between the parties and no dispute to that effect. The counsel also would submit that Exhibit 'D' series i.e., Exs.D1 to D7 also to be taken note of with regard to the contradictory statements which were confronted to the witnesses P.W.1 to P.W.4. The counsel would submit that when the incident has taken place in the presence of the Police, the Police ought to have informed the same to



CNR: KAHC010268892018

Higher-ups and no such information is given and the very presence of Police itself is doubtful and only with an intention to help P.W.1, P.W.2 and P.W.4 have registered a separate case that they went to provide protection.

11. The counsel would further contend that the Doctors, who have been examined as P.W.20 and P.W.21 are not the treated Doctors and the prosecution ought to have examined the treated Doctors. The very presence of P.W.15 and P.W.16 is doubtful and though they support the case of the prosecution and also sustained injuries according to the prosecution, the wound certificates are not marked. The counsel would submit that the very evidence of P.W.1 is that he had sustained bleeding injuries, but his clothes are not seized and the same is also a material to connect the accused persons. The counsel would submit that admission of P.W.1 is very clear that he was not at the spot when the alleged incident had taken place and he was at the house. The counsel would contend that, in order to connect the accused persons for the offence punishable under Section 307 read with Section 149 of IPC when the offence was invoked under Section 307 read with Section 149



of IPC, the evidence of all the witnesses is an exaggeration that they lost consciousness and consciousness was regained later i.e., one says that it was regained after 3 days and another says that it was after 5 days. P.W.1 also exaggerated that he had sustained grievous injuries and 15 stitches were put. But, wound certificate at Ex.P12 in respect of P.W.1 discloses that there were 4 stitches. The counsel also would submit that in the separate case registered against the accused persons in preventing the Police officials from discharging their duties in C.C.No.151/2011, the accused persons were acquitted.

12. Having heard the Amicus Curiae appointed on behalf of the appellant-complainant and learned counsel appearing for respondent Nos.2 to 5 and 7 to 19 and also on reassessing the material available on record, the points that would arise for consideration of this Court are:

- (i) Whether the Trial Court committed an error in acquitting the accused persons, inspite of P.W.1, P.W.2 and P.W.4 have sustained injuries and to that effect, Exs.P12 to P14 are marked and whether the medical evidence corroborates with the case of the prosecution



CNR: KAHC010268892018

to convert acquittal into conviction for the offences invoked against the accused persons?

(ii) What order?

Point No.(i)

13. Having heard the Amicus Curiae appointed on behalf of the appellant-complainant and learned counsel appearing for respondent Nos.2 to 5 and 7 to 19, the Court has to take note of the fact that incident has taken place on 11.30 a.m. It is also the case of the prosecution witnesses that the Court has passed an order to give protection to the injured witnesses P.W.1, P.W.2 and P.W.4 to work in their land in vacant Site No.69. It is also the case of the prosecution, accordingly they went near the land and these accused persons by forming an unlawful assembly, in furtherance of common object, all of them came and inflicted the injuries. It is to be noted that nature of weapons which were used are iron rod, stone and ramrod and the Court has to take note of evidence of P.W.1, P.W.2 and P.W.4, who are the injured witnesses, keeping in view the documents Exs.P12, P13 and P14.



14. Having perused the document Ex.P12, 5 injuries are sustained by P.W.1 and those injuries are lacerated injuries, including 4 stitches in respect of second injury i.e., temporal aspect of head. Hence, it is clear that he has sustained injury to the head also. But all these injuries are simple in nature. But the weapons according to the prosecution which were used by the accused are deadly weapons like iron rod, club, ramrod and stone. But, it is the specific evidence of P.W.1 that 11 persons have assaulted him with deadly weapons, however, injuries are simple in nature and there are no grievous injuries. But, P.W.2 has sustained grievous injury i.e., linear cut lacerated wound measuring 2 x 1 cm. over the right parietal bone. But, evidence of the witnesses is contradictory. According to P.W.2, she has sustained injury to nose i.e., a cut throat injury. But, no such cut throat injury on the nose and the evidence of P.W.1 to P.W.4 is nothing but an exaggeration.

15. Having considered the evidence of P.W.1, though he deposed with regard to the incident is concerned that P.W.2 to P.W.4 have also sustained injuries and overt act allegation is made both in respect of P.W.1 and P.W.2. But, in the cross-



examination, particularly with regard to the incident is concerned, a categorical admission was made that there was a civil dispute between the parties. So also in paragraph No.6, categorically admits that on the date of the alleged incident, she was at house and not at the spot. But, though he claims that from that date of incident, he had applied for 5 days leave, but his admission is very clear that when he inflicted the injury, he has not lost his consciousness, but, deposes that clothes were blood stained and the Police have not seized the same and also specific admission is given, while accused No.2 was inflicting injury using iron rod, he has not lost his consciousness and so also in respect of accused No.3-Anjinappa, when he assaulted with iron rod on his head, he has not lost his consciousness. But, he only says that accused-Venkateshappa also assaulted him with iron rod.

16. The Court has to take note of the evidence of P.W.2 and she also says that accused No.3 assaulted her i.e., Narayanswamy on her nose and accused Mune Gowda assaulted on her back and accused No.2 assaulted with stone. But, there are two injuries on her and also in the cross-



CNR: KAHC010268892018

examination, she says that when P.W.1 had sustained the injuries, he lost consciousness and the same is contradictory to the evidence of P.W.1. But, she says that he had regained the consciousness after 3 days and she also sustained injuries and her clothes were also stained with blood. But, those clothes were not seized and since she had sustained injury on her nose, she lost consciousness and she regained the same after 5 days and there are material contradictions in the evidence of P.W.1 and P.W.2 both in respect of overt act alleged against P.W.1 and P.W.2. Though P.W.3 deposed before the Court and he was very much present at the time of the incident, considering the evidence of P.W.4, who is also an injured witness, who also sustained simple injuries, he deposes that his wife Lakshamma i.e., P.W.2 also sustained injuries when Narayanswamy inflicted injury with iron rod on the nose and she has sustained nasal cavity. But, there is a contradictions with regard to inflicting the injury by the different accused persons and in the cross- examination of P.W.4, a suggestion was made that in respect of civil dispute between the parties, a false complaint is filed and the said suggestion is denied.



CNR: KAHC010268892018

17. The evidence of main witnesses i.e., P.W.1 and P.W.2 is contradictory to each other and no doubt, both of them while giving the evidence have exaggerated the very incident, but the admission on the part of P.W.1 that at the time of the incident he was in the house and the very incident is doubtful. So also in respect of the place of incident is concerned, the Trial Court while considering the material on record, particularly in paragraph No.37 taken note of Ex.P3 and Ex.D9 charge sheet and also the admission on the part of P.W.1 that the place of incident is vacant site bearing Khatha No.69. But, Ex.P3 discloses that it was described as public road near Khatha No.69 and also in the charge sheet in Crime No.144/2010 it is mentioned as near the house of Kittappa. The Apex Court also relied upon the judgment of the Apex Court in **SYED IBRAHIM V. STATE OF ANDHRA PRADESH** reported in **(2006) 10 SCC 601**, wherein the Apex Court held that when the place of occurrence itself has not been proved, it would not be proper to accept the prosecution version.

18. The Trial Court also taken note of evidence of P.W.14 to P.W.17, who are the official Police witnesses and



they have stated before the Court that they cannot identify the accused persons and their statements have been recorded two months after the incident and comes to the conclusion that they are tutored witnesses and as such, no reliance can be placed on their evidence. The Trial Court also taken note of the nature of injuries sustained by P.W.1, P.W.2 and P.W.4 and also the evidence of P.W.20 and P.W.21 and also the weapons which were used. But, the evidence of P.W.20 discloses that he is not the author of the wound certificate Ex.P12. In the cross-examination of P.W.21, he has stated that wound certificate at Exs.P13 and 14 were issued on 03.09.2010 and the injuries mentioned in Ex.P14 are not likely to be caused with blunt object; injuries mentioned in Ex.P3 is less likely to be caused with blunt object. Having taken note of the evidence of the Doctors, P.W.20 and P.W.21, Trial Court comes to the conclusion that evidence of P.W.20 and P.W.21 is not helpful to the prosecution to state the nature of injuries sustained by P.W.1, P.W.2 and P.W.4 and also the weapons which were used i.e., club, ramrod, stone and the iron rod.



CNR: KAHC010268892018

19. It is also important to note that the evidence of witnesses P.W.14 to P.W.17 is very clear that they have collected the weapons M.O.1 to M.O.7 from the spot and M.O.1 to M.O.7 from the place of occurrence under mahazar Ex.P3 cannot be believed, since there is discrepancy in Ex.P3 and Ex.D9 and so also the evidence of P.W.1 and with regard to the seizure is concerned also, it is very doubtful. All these materials were collected by the prosecution and appreciating the evidence on record, the Trial Court taken note of particularly that there was a civil dispute and ill-will between the parties and the very nature of injuries sustained by P.W.1, P.W.2 and P.W.4 and medical evidence also not corroborates with each other. The evidence of P.W.1, P.W.2 and P.W.4 contradicts with each other and at the time of incident, P.W.1 was at the house not at the incident spot. When such materials were taken note of by the Trial Court, the Trial Court rightly comes to the conclusion that benefit of doubt goes in favour of the accused persons.

20. It is also settled law that while converting the acquittal to conviction, there must be positive and cogent



evidence before the Court. If the Trial Court fails to consider the evidence in a proper perspective and if there is any perversity in the finding and also the evidence is not properly appreciated which results in miscarriage of justice, under the said circumstances only, the Court can convert the acquittal into conviction.

21. This Court would like to rely upon the judgment of Apex Court in **MALLAPPA AND OTHERS v. STATE OF KARNATAKA** reported in **(2024) 3 SCC 544**, wherein the Apex Court categorically held that if the finding of the Trial Court is perverse, then only the Court can interfere with findings to reverse the judgment of acquittal into conviction and unless the same is found in the reasoning of the Trial Court, question of entertaining the appeal for acquittal and such circumstances is not warranted in the case on hand. Hence, we do not find any grounds to convert the judgment of acquittal to conviction. When such being the case, even if Court comes to two views, the benefit of doubt goes to the accused and this Court does not find a single view having reappraised and re-appreciated the evidence available on record. Therefore,



NC: 2026:KHC:45868-DB
CRL.A No. 1503 of 2018

no merit to convict the accused persons and reverse the judgment of acquittal into conviction and we, answer point No.(i) as 'negative'.

Point No.(ii)

22. In view of the discussion made above, we pass the following:

ORDER.

- (i) The appeal is ***dismissed.***
- (ii) The Registry is directed to pay a sum of Rs.10,000/- to the Amicus Curiae for the able assistance given on behalf of the appellant-complainant for disposal of the case.

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

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