



CNR: KAHC010309052014

NC: 2026:KHC:45670
CRL.A No. 1041 of 2014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE S RACHAIAH

CRIMINAL APPEAL NO. 1041 OF 2014 (C)

BETWEEN:

M. SHASHI KUMAR
@ SHASHIDHAR,
S/O. MUNE GOWDA,
AGED ABOUT 29 YEARS,
AGRICULTURIST,
R/AT MELTAYALUR,
MULBAGAL TALUK,
KOLAR DISTRICT – 567 125.

...APPELLANT

(BY SRI. LEELADHAR H. P., ADVOCATE)

AND:

STATE OF KARNATAKA



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BY MULBAGAL POLICE STATION,
KOLAR DISTRICT – 567 125.

...RESPONDENT

(BY SRI. S. JAVEED., HCGP)

CRL.A. FILED U/S.374(2) CR.P.C BY THE ADV., FOR
THE APPELLANT PRAYING TO SET ASIDE THE ORDER
DATED 29.10.2014, PASSED BY THE II ADDL. SESSIONS
JUDGE AT KOLAR, IN SPL.S.C.NO.13/12, CONVICTING
THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 323,
325 OF IPC AND U/S 3(1)(X) OF SC/ST (POA) ACT.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH



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ORAL JUDGMENT

1. This criminal appeal is filed by the appellant/accused, seeking to set aside the judgment of conviction dated 29.10.2014 and order on sentence dated 30.10.2014 passed in learned II Additional Sessions Judge, Kolar for the offences punishable under Sections 323, 325 of IPC and Sections 3(1)(x) of SC/ST (POA) Act.
2. The rank of the parties will be considered henceforth as per their rankings before the Trial Court.

Factual matrix of the case:

3. The case of the prosecution is that the complainant is a permanent resident of Meltayalur Village and has four children. Out of them, the victim-Narendra, aged about 12 years, is her second son. On 06.07.2012, at about 11:00 a.m., when the complainant had gone to coolie work, the victim-Narendra, accompanied her and the complainant sent him back to the house. The relatives of the complainant, namely Venkateshappa and her sister Padmamma, saw the victim at about 3:30 p.m., near a



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channel who was lying in an unconscious condition. They informed the complainant about the said incident. The complainant rushed to the spot and saw her son, who was in an unconscious state. At that time, the accused was standing beside her son, abused the complainant in filthy language by naming her caste, stating that he had assaulted her son, and the accused also tried to assault the complainant and kill her. With the help of Venkateshappa and Padmamma, the complainant took her son to the Government Hospital, Mulbagal. After first aid, the victim narrated the complainant about the incident, when he was collecting mango fruits that had fallen on the ground from the garden of the accused, the accused picked up a quarrel with him, abused him in filthy language by naming his caste, kicked him on the stomach, and threw him into the channel. As per the advice of the doctor, the complainant took the victim to R.L. Jalappa Hospital, Kolar, where the victim underwent surgery. Thereafter, the complainant lodged a complaint against the accused.



4. Based on the said complaint, the respondent - police have registered a case in Cr.No.228/2012, conducted investigation and submitted the charge sheet.
5. In order to prove the case of the prosecution, the prosecution examined 9 witnesses as PWs.1 to 9 and got marked 7 documents as Exs.P.1 to 7. On the contrary, the accused got marked one document as Ex.D1. The Trial Court, after appreciating both oral and documentary evidence on record, recorded the conviction against the accused for the aforesaid offences.
6. Heard learned counsel Sri. H.P.Leeladhar, learned counsel for the appellant and Sri. S. Javeed, learned High Court Government Pleader for the respondent – State.
7. The submission of learned counsel for the appellant is that the judgment of conviction and order on sentence passed by the Trial Court is erroneous and contrary to the evidence on record. Therefore, the same is liable to be set aside.



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8. It is further submitted that the as per Ex. P.2-spot mahazar, and also the evidence of P.W.7-Mr.H.P.Rajanna would indicate that there was no yield in the mango trees when the alleged incident had taken place. Such being the fact, making allegations that P.W.2-victim had been to the mango grove to pluck the mangoes from the tree is concocted and unbelievable. It is further submitted that such being the fact, assault and also abuse by naming the caste loses its significance.
9. It is further submitted that no independent witnesses were cited by the investigating officer with regard to the incident. The persons who supported the case of the prosecution are merely the relatives of the complainant. Therefore, the trial Court ought to have appreciated the evidence of these witnesses properly. The absence of a proper evaluation of the evidence has resulted in passing the impugned judgment, which is required to be set aside. Making such submission, learned counsel for appellant prays to allow the appeal.



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10. *Per contra*, learned High Court Government Pleader for the respondent-State vehemently justified the judgment of conviction and order on sentence and stated that the judgment of conviction and order on sentence passed by the trial Court is proper and appropriate. In fact P.W.2 being an injured has supported the case of the prosecution. The wound certificates-Exs.P.4 to 6 are very clear that the injured sustained injury on the stomach, which are said to be the grievous in nature. Such being the fact, conviction rendered by the Trial Court has to be upheld and the appeal has to be dismissed.
11. Having heard learned counsel for the respective parties and on perusal of the findings of the Trial Court in rendering the conviction, it appears that P.W.1 is stated to be the complainant, has lodged the complaint as per Ex.P.1, stating that P.W.2 who is her son had been to the mango grove of the appellant to pluck the mango which was fallen on the ground. At that time, the appellant caught hold of P.W.2 and assaulted him. When the complainant approached him and asked as to why he was



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assaulting her son, it is alleged that the appellant had insulted by naming her caste and also assaulted her son. After the incident, it is alleged that she had shifted her son to Govt. Hospital, Mulabagilu and on advice of the doctors, they took the injured to SNR Hospital, Kolar in the ambulance. Thereafter, they went to RL Jalappa Hospital, Kolar.

12. P.W. 2 -Narendra stated in his evidence that P.W.1 is his mother. Padmamma-C.W.3 is his aunt. Two years ago, at about 10 a.m., his mother had been to collie work and he accompanied her. On that day, when he was returning to his home near the mango tree of the appellant, he saw that some mango fruits had fallen on the ground and he was collecting them. At that time, the accused/appellant caught hold of him, lifted him upwards, threw him down onto the floor, and also assaulted him with his legs on the stomach. Consequently, he became unconscious.

13. P.W.3 - Smt.Padmamma deposed in her evidence that she knew the accused one and half year ago. She saw



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that accused was lifting P.W.2 upwards and threw him down onto the floor and also he was stamping with his leg on the stomach of PW2. When she asked as to why he was doing in such a cruel manner, he insulted her by naming a caste.

14. P.W.4-Venkatesh deposed that P.W.1 was his cousin sister. He knew the accused/appellant. He also supported the case of the prosecution as that of others.
15. P.W.5-Ramakrishnappa Deposed that he had affixed signature to Ex.P.2-spotmahazar.
16. P.W.6-Dr. Venkatesh, P.W.8- Dr. H.S. Raghunath Reddy and P.W.9-Dr.Govindaraju, are all the doctors who treated the injured and submitted their respective reports. As per Ex.P.6 - wound certificate of the injured, injured had sustained grievous injury on the abdomen due to assault and the same has been considered as grievous in nature.



17. However, on going through the evidence of all these witnesses, it appears that the evidence of P.W.9-Doctor assumes greater significance. According to him, he has subjected the injured for medical examination and submitted his report as per Ex.P.6. Though he has assertively stated that P.W.2 sustained grievous injury, Scan Report has not been produced to demonstrate that he had sustained grievous injury. In the absence of the said report, it cannot be said that the injured had sustained grievous injury.

18. That apart, the evidence of P.W.7 and also Ex.P.2 clearly indicates that the mango trees were aged about 4 years, were not giving any yield as on the date of the date of conducting mahazar. Such being the fact, it cannot be believed that P.W.2 had been to the land to pluck the mangoes and also it cannot be believed that the appellant had insulted by naming the caste of P.Ws.1 and 3 when they questioned the act of the appellant.



19. It is also noted here that no independent witnesses have been cited to corroborate the evidence of P.Ws.1 and 3. Such being the fact, the contention raised by the learned counsel has to be accepted and it can be inferred that the Trial Court has committed error in appreciating the evidence on record. Merely because the doctors have opined that P.W.2 sustained injury, that itself is not sufficient to hold that the incident had occurred in the alleged Place of occurrence.
20. In the light of the observations made above, I proceed to pass the following:

ORDER

- i) The Criminal Appeal is *allowed*.
- ii) The judgment of conviction dated 29.10.2014 and order on sentence dated 30.10.2014 passed in learned II Additional Sessions Judge, Kolar is set aside.
- iii) The accused is acquitted for the offences punishable under Sections 323, 325 of IPC and Sections 3(1)(x) of SC/ST (POA) Act.



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iv) Bail bonds executed, if any, stand cancelled.

Sd/-
(S RACHAIAH)
JUDGE

JS
List No.: 1 Sl No.: 41