

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.828 OF 2026 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY DEPUTY SUPERINTENDENT OF POLICE
DAVANAGERE SUB-DIVISION
HONNALI POLICE STATION
DAVANAGERE DISTRICT
REPRESENTED BY THE
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001

...APPELLANT

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

AND:

1. G. T. GANESH
S/O. TIPPANA
AGED ABOUT 46 YEARS
R/O. HOSAKERE VILLAGE
HONNALI TALUK
DAVANAGERE DISTRICT-577 217

2. RUDRAMMA
W/O. LATE MUDDESHAPPA
AGED ABOUT 53 YEARS
R/AT BELALAGERE VILLAGE
CHANNAGIRI TALUK
DAVANAGERE DISTRICT

...RESPONDENTS

(BY SRI RAJU C. N., ADVOCATE FOR R-1;
SRI VAMSHI CHANDRASHEKARA, ADVOCATE FOR R-2)

Digitally signed
by
SHEKAR DAVANI
B

Location: HIGH
COURT OF
KARNATAKA

THIS CRL.A. IS FILED U/S. 378(1) AND (3) CR.PC (FILED U/S. 419 (1) AND (3) OF BNSS) BY THE SPP AND CR.PC BY THE ADVOCATE FOR THE APPELLANT FOR STATE PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 17.01.2026 PASSED IN SPL.CASE(SC/ST) NO.33/2022 ON THE COURT OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE DAVANAGERE, THEREBY ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 447, 379, 427, 435, 201, 504 AND 506 OF IPC AND SECTIONS 3(1)(f), 3(1)(r), 3(1)(s), 3(2)(v) AND 3(2)(v-a) OF SC AND ST (POA)ACT AND SET ASIDE THE JUDGMENT AND ORDER OF ACQUITTAL DATED 17.01.2026 PASSED IN SPL.CASE(SC/ST) NO.33/2022 ON THE COURT OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE DAVANAGERE, THEREBY ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 447, 379, 427, 435, 201, 504 AND 506 OF IPC AND SECTIONS 3(1)(f), 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(v-a) OF SC AND ST (POA)ACT, BY ALLOWING THIS CRIMINAL APPEAL AND ALSO CONVICT AND SENTENCE THE ACCUSED/RESPONDENT FOR THE AFORESAID OFFENCES IN ACCORDANCE WITH LAW.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 01.09.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE B.PRAMOD

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE B.PRAMOD)

1.1. This criminal appeal is filed by the State of Karnataka, the appellant, being aggrieved by the order of acquittal passed on 17.01.2026 in Spl. Case (SC/ST) No. 33/2022, on the Court of the II Additional District and Sessions Judge, Davanagere and sought for conviction. The acquittal was passed in respect of offences punishable under Sections 447, 379, 427, 435, 201, 504 and 506 of the Indian Penal Code, and Sections 3(1)(f), 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(v-a) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

1.2. Heard Sri Suhas Gowda M, learned HCGP, appearing on behalf of the appellant-State, Sri. Raju C. N., learned counsel appearing for respondent No.1 and Sri. Vamshi Chandrashekara, learned counsel appearing for respondent No.2.

1.3. The factual matrix of the case, as per the prosecution, is as follows:

(a) According to the prosecution, the informant belongs to a Scheduled Tribe community, and the accused is not a member of either the Scheduled Caste or the Scheduled Tribe.

(b) The informant purchased Site No. 63 from one Yatiraj, an Advocate by profession, under a registered sale deed dated 13-02-2008. The said site is situated at Durigudi Extension, Honnali Taluk.

(c) In the same extension, the accused purchased Site No. 61 through a registered sale deed. The said site is situated on the western side of the site belonging to the informant.

(d) The accused, with the intention to encroach upon the site belonging to the informant, destroyed the compound wall situated on the western, northern, and southern sides of the informant's site. Consequently, the

informant was constrained to file a civil suit, which is presently pending for adjudication.

(e) Prior to the registration of the sale deed in favour of the informant, the said advocate had cultivated teak plants on the site. The accused encroached upon the site belonging to the informant, and in the month of June 2021, engaged CW-8, a coolie worker, and caused the teak trees standing on the informant's site to be cut. Thereafter, the accused allegedly committed theft of the said teak wood by transporting it in the tractor belonging to CW-7.

(f) After cutting and removing the trunks of the trees, and for the purpose of levelling the site, the accused set fire to the remaining parts of the trees, including the branches, roots, and other portions embedded inside the earth, thereby causing damage to the informant to the tune of Rs.25,000/- to Rs. 30,000/-.

(g) Thereafter, the informant submitted a complaint before the jurisdictional police. On 17-06-2022 at about 1:30 p.m., CW-17 along with CW-15 visited the spot, and

at that time the accused was also present at the place. It is alleged that the accused abused the informant in filthy language, intentionally insulted her by referring to her caste, and threatened her with dire consequences. On these grounds, the informant lodged the complaint against the accused before the jurisdictional police.

1.4. Based on the complaint of the victim, after investigation, the police filed a charge sheet, and the accused went to the trial court, pleaded not guilty, and claimed to be tried. The prosecution examined PWs. 1 to 11. Exhibits were marked as Ex. P1 to P26. Further, material objects were marked as MOs. 1 and 2. During the cross-examination, Exhibits D1 and D2 were marked on behalf of the accused. Thereafter, a statement under Section 313 of the Code of Criminal Procedure was recorded, and the accused denied the charges and chose not to enter the witness box or examine any witness on his behalf.

2.1. The trial Court, in paragraph no. 38, has observed that the information lodged by the informant at

Ex. P3 does not mention that she had gathered the information from any neighbouring person that the accused had cut down the trees and set fire to the base of the trees. The same paragraph also notes that the complaint was lodged after 14 days, and it is also not mentioned in the complaint as to how she came to know that the accused had cut down the trees and transported the same without her knowledge. These create doubt in the prosecution case. The trial Court noted inconsistency in the evidence and lapse on the part of the prosecution in bringing the accused to jail and acquitted the accused.

2.2. The trial Court, in paragraph no.68, has further noted that the material objects were recovered in the police station, and this clearly demonstrates the lapse committed by the investigating officer. The trial Court, in paragraph no. 69, has observed that such recovery does not satisfy the requirement contemplated under Section 27 of the Indian Evidence Act. In paragraph no. 72, it is noted that according to the prosecution, the teak wood pieces were transported to the house of the accused situated at

Hosakere. If that being so, nothing prevented the Investigating Officer from visiting the house of the accused and recovering the wooden pieces from there. These lapses cannot be ignored, particularly when charges were framed against the accused under Section 379 of the Indian Penal Code, and the Investigating Officer has failed to collect relevant evidence as contemplated under law.

2.3. The trial Court, in paragraph no.73, has observed that the Investigating Officer has not collected any relevant document to show that the teak wood trees were situated in the site belonging to the informant. The trial Court has also noted that there was a delay and the prosecution has failed to explain the delay in launching the complaint of about 14 days, and in Ex. P3, which is a typed document, the explanation regarding the delay is written in handwriting, and the trial Court has noted that it creates doubt in its mind.

3.1 Learned HCGP Sri. Suhas Gowda submits on behalf of the appellant that the trial Court has failed to

appreciate the oral and documentary evidence on record in a proper and perspective manner and erred in its conclusion. He submits that the trial Court has grossly erred in not appreciating the evidence of the prosecution witnesses while acquitting the respondents/accused persons, resulting in a miscarriage of justice. It is submitted that the judgment and order of acquittal passed is completely contrary to the evidence on record and, without assigning proper reasoning, the trial Court passed the erroneous order, which is not sustainable under law.

3.2. It is further submitted that the trial Court failed to appreciate the evidence of PW.1, who is the victim and informant, PW.2, who is the daughter of the informant and an eyewitness, and PW.10, who is the circumstantial witness. Learned HCGP argues that the main witnesses being the complainant, and even though his daughter testified in support of the prosecution regarding the incident, it is not reasonable for the trial Court to give the accused the benefit of doubt and release him without properly considering the said evidence.

4. Learned advocates Sri.Raju C. N. appearing for respondent No.1 and Sri.Vamshi Chandrashekara, for respondent No.2 contend that the trial Court on rightly appreciating the material on record both oral and documentary, has acquitted the accused and the same does not requires interference of this Court. Hence, they seek for dismissal of this appeal.

5. Having heard learned counsel for the parties and on perusal of the reasons assigned in support of the acquittal order, the following points arise for consideration of this appeal are:

"(i) Whether the order of acquittal passed by the trial Court for the offences punishable under Sections 447, 379, 427, 435, 201, 504 and 506 of the Indian Penal Code and Sections 3(1)(f), 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(v-a) of the SC and ST (POA) Act requires interference of this Court?

(ii) What order should be passed?"

Point No.(i):

6.1. The trial Court has, in its detailed order, carefully examined the evidence on record and arrived at

its conclusion after a thorough appreciation of the prosecution evidence and the material objects on record. The trial Court has, in paragraphs Nos.50 and 62 of the order, observed that PW.1, being a Police Officer and an independent witness, has not testified before the Court that in his presence, the accused abused the informant, threatened her life, or used any caste-based words. Being the best possible witness to such an incident and being a police sub-inspector, his failure to depose about the alleged caste-based abuse and threats creates serious doubt about the prosecution version. The learned trial Court in paragraph no.53 has further noted that PW.10 has neither recorded the incident in the Station Diary nor recorded the statement of the informant on the same day.

6.2. The trial Court, in paragraph no.38, has observed that the information lodged by the informant at Ex. P3 does not mention that she had gathered the information from any neighbouring person that the accused had cut down the trees and set fire to the base of the trees. The same paragraph also noted that the

complaint was lodged after 14 days, and it is also not mentioned in the complaint as to how she came to know that the accused had cut down the trees and transported the same without her knowledge. These create doubt in the prosecution case. The learned trial Court noted inconsistency in the evidence and lapse on the part of the prosecution in bring home guilt of the accused and acquitted the accused.

6.3. The trial Court has further noted, in paragraph no. 68, that the material objects were recovered in the police station, and this clearly demonstrates the lapse committed by the investigating officer. The same Court, in paragraph no.69, has observed that such recovery does not satisfy the requirement contemplated under Section 27 of the Indian Evidence Act. In paragraph no. 72, it is noted that according to the prosecution, the teak wood pieces were transported to the house of the accused situated at Hosakere. If that being so, nothing prevented the Investigating Officer from visiting the house of the accused and recovering the wooden pieces from there. These

lapses cannot be ignored, particularly when charges were framed against the accused under Section 379 of the Indian Penal Code, and the Investigating Officer has failed to collect relevant evidence as contemplated under law.

6.4. The trial Court, in paragraph no.73, has observed that the Investigating Officer has not collected any relevant document to show that the teak wood trees were situated in the site belonging to the informant. The trial Court has also noted that there was a delay and the prosecution has failed to explain the delay in launching the complaint of about 14 days, and in Ex.P3, which is a typed document, the explanation regarding the delay is written in handwriting, and the trial Court has noted that it creates doubt in its mind.

6.5. The trial Court, on appreciation of the documents and evidence on record, has held that the prosecution has failed to prove the guilt beyond reasonable doubt. It has in detail considered the evidence of PWs.1, 2, and 10 and others, and also exhibits on

record, and has come to the conclusion that the prosecution has failed to prove the case. This conclusion is based on the material placed before it.

6.6. The Apex Court has consistently held that in criminal cases, particularly those relying on circumstantial evidence or where the prosecution case contains material inconsistencies, the benefit of the doubt must be given to the accused. The burden of proving guilt beyond reasonable doubt rests entirely on the prosecution, and this burden is never displaced merely because the Court feels that the accused might be guilty. Only where the evidence is cogent, convincing, and free from reasonable doubt can an acquittal be reversed. The Apex Court in the ***MALLAPPA AND OTHERS V/s. STATE OF KARNATAKA*** reported in **2024 (3) SCC 544** has held as follows:

"....42. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:

(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be

comprehensive – inclusive of all evidence, oral or documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court....”

6.7. The Trial Court by considering the oral and documentary evidence, it rightly has come to the conclusion that the evidence of the prosecution witnesses does not corroborate with each other and there are inconsistencies in the evidence of the prosecution witnesses and contradictions. In the present case, the trial Court has gone through each witness evidence each exhibit, and each piece of evidence, and has identified

specific inconsistencies and lapses in the prosecution case. The trial Court's conclusion that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt is based on a careful and deliberate appreciation of the evidence placed on record. The findings are not perverse, nor are they arbitrary. The trial Court has assigned cogent reasons for its conclusion. When such a reasoned order is given by the Trial Court and view of the above discussions, we do not find any ground to interfere with the findings of the Trial Court, and the same does not come within the principles laid down by the Apex Court in the **MALLAPPA AND OTHERS v. STATE OF KARNATAKA** reported in **2024 (3) SCC 544** and while reversing the judgment of acquittal into conviction, there must be cogent and convincing evidence and only if perversity is found, the Court can reverse the same. Hence, we answer the point No.1 in the Negative and the case does not warrant admission.

Point No. (i) is answered in the **negative**.

Point No.(ii):

ORDER

In the light of the discussions made hereinabove, we
pass the following order:

The appeal is hereby ***dismissed.***

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

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

Bsv