



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 11TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO. 809 OF 2013 (C)

BETWEEN:

1. THIMMARAJU
S/O DHANUCHAIAH,
AGED ABOUT 24 YEARS,
2. DHANUCHAIAH
S/O THIMMAIAH,
AGED ABOUT 57 YEARS,

BOTH ARE RESIDING AT
KUNCHIGANAHALLI VILLAGE,
NITTUR HOBLI, GUBBI TALUK,
TUMKUR DIST:561 202.

...APPELLANTS

(BY SRI. PRAVEEN C., ADV. FOR
SMT. JYOTHI S. KEMPEGOWDA, ADV.)

AND:

THE STATE BY CHELURU POLICE,
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE-560001.

...RESPONDENT

(BY SMT. N. ANITHA GIRISH, HCGP)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C BY THE ADV.
FOR THE APPELLANTS/ACCUSED NO.1 AND 2 PRAYING TO SET
ASIDE THE ORDER DATED 05.08.2013 PASSED BY THE PRL.
DIST. & S.J., TUMKUR IN S.C.NO.184/2012 - CONVICTING THE
APPELLANTS/ACCUSED FOR THE OFFENCE P/U/S 447,353,504
AND 307 R/W 34 OF IPC AND ETC.



THIS APPEAL, COMING ON FOR FURTHER ARGUMENTS,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The appellants have preferred this appeal assailing the judgment of conviction and order of sentence dated 05.08.2013 passed by the Principal District and Sessions Judge, Tumkuru in S.C.No.184/2012 whereby the appellants were convicted for the offence punishable under Sections 447, 353, 504 and 307 read with Section 34 of IPC.
2. The parties are referred to as per their rank before the Trial Court.
3. The brief facts leading to the filing of this appeal are that the Sub-Inspector of Police, Belur police station, Tumkur division filed a charge sheet against the accused for the offences punishable under Sections 307, 447, 353 and 504 read with Section 34 of IPC.



4. It is the case of the prosecution that on 23.07.2011 at about 10:00 p.m. in the forest area in Sy.No.4 of Arenahalli, Nittur Hobli, Tumkur Taluk, the accused, in furtherance of their common intention, committed criminal trespass into the forest land by bringing a tractor with trailer bearing No.KA-11-T-4247. It is further alleged that with the common intention of committing the murder of CW.1 - Siddalingamurthy, CW.2 - Maranna and CW.3 - Jayalakshmi, who were officials of the forest department, accused Nos.1 and 2 assaulted CWs.1 to 3 public servants, in order to deter them from discharging their official duties. It is also alleged that accused Nos.1 and 2 in furtherance of their common intention, intentionally insulted CWs.1 and 2 by using filthy language namely "ಬೋಲಿ ಮಕ್ಕಳ, ಸೂಳಿ ಮಕ್ಕಳ" thereby provoking them with the intention that such provocation would cause a breach of the public peace. Further, it is alleged that accused Nos.1 and 2 with the common intention of causing death of CWs.1 to 3, attempted to run the tractor over them, thereby committing an act which if it had resulted in



death, would have amounted to an offence punishable under Section 307 of IPC.

5. After filing charge-sheet, cognizance was taken against the accused and the case was registered in C.C.No.282 of 2012 and after committed to the Court of Sessions, case was registered in S.C.No.184 of 2012. On hearing the charges, the Trial Court has framed the charges for the alleged offences. The same was read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

6. To prove the guilt of the accused, prosecution has examined in all 11 witnesses as PWs- 1 to 11; 42 documents were marked as Exs.P1 to P42; three material objects were marked as MOs-1 to 3. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C. was recorded. Accused has totally denied the evidence of the prosecution witnesses. However, they did not choose to lead any defence evidence on their behalf.



7. Having heard the arguments on both sides, the Trial Court has convicted the accused Nos.1 and 2 for the offences punishable under Section 447, 353, 504 and 307 r/w 34 IPC and passed sentenced to undergo simple imprisonment for a period of two months and to pay a fine of Rs.205/- each for the offence under Section 447 r/w 34 IPC. Accused shall undergo simple imprisonment for a period of one year and shall pay a fine of Rs.1,000/- each for the offence under Section 353 r/w 34 IPC and accused shall undergo simple imprisonment for a period of one year and shall pay a fine of Rs.1,000/- each for the offence under Section 504 r/w 34 IPC and the accused shall undergo simple imprisonment for a period of five years and shall pay a fine of Rs.2,000/- each for the offence under Section 307 IPC r/w Section 34 of IPC.

8. Being aggrieved by this judgment of conviction and order on sentence, the appellants/accused Nos.1 and 2 have preferred this appeal.



9. The learned counsel appearing on behalf of the appellants would submit that the Trial Court failed to consider the fact that the complainant and other two witnesses PW-1 to PW-3 are all Government Officials and they have turned hostile. Even PW-1 who is stated to be the complainant and being a forest guard has not categorically stated the fact that when the incident took place and what date he had lodged the complaint. *Prima-facie* it will show that complaint itself is a false complaint and no incident/crime has taken place. The Trial Court failed to appreciate the fact that even though PW-1 to PW3 are all educated, they have failed to identify the number of the vehicle, that is Tractor as on the date of alleged incident. Further, the trial Court failed to consider the fact that there were no injuries or they have not taken any treatment to attract the offence punishable under Section 307 IPC. Even in the complaint or in statement also, PW-1 has not stated anything about the intention of the accused to commit the murder of PW1 to PW3, who are stated to be the eye-witnesses. The Trial Court has not considered



the fact that alleged incident has occurred on 23.07.2011 at about 10.00 pm. But the complaint was lodged on 24.07.2011 at 07.00 pm. As there is inordinate delay in lodging the complaint, as such, complaint itself is an after-thought and motivated. The Trial Court further failed to appreciate the fact that PW-4 has categorically admitted with regard to the spot mahazar and he had stated that he does not know the contents of panchanama. The Trial Court has not properly appreciated the evidence on record in proper perspective. The prosecution has not placed any material to constitute the offence under Section 353 and 307 IPC. However, the Trial Court has convicted the accused for the offence under Section 353 and 307 r/w 34 IPC, which is not sustainable under law. On all these grounds, the appellants sought to allow this appeal.

10. The learned counsel for the appellants would further submit that if this Court comes to the conclusion that the accused have committed the offence under Section 447 and 504 IPC, then the sentence already undergone by the



accused for a period of more than four months, may be set off and release the accused.

11. As against this, the learned HCGP would submit that the Trial Court has properly appreciated the evidence on record, in accordance with law and facts, absolutely there are no materials to interfere with the impugned judgment of conviction and order on sentence passed by the Trial Court and sought for dismissal of the appeal.

12. Having heard the arguments on both sides and perusal of materials placed before this Court, the following points would arise for my consideration:

- i) Whether the Trial Court is justified in convicting the accused for the offence punishable under Sections 307, 353, 504, 506 read with 34 IPC?*
- ii) What order?*

My answer to the above points are as under:

Point No.1: In the Negative.

Point No.2: As per final order.



Regarding Point No.1:

13. I have examined the materials placed before this Court. The genesis of the case arise out of the complaint Ex.P12 filed by D.S.Siddalingamurthy, who is examined as PW-1, in which it is stated as under:

"ಅ ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ಈಗ್ಗೆ 11 ವರ್ಷಗಳಿಂದ ಅರಣ್ಯ ಇಲಾಖೆಯಲ್ಲಿ ಅರಣ್ಯ ರಕ್ಷಕನಾಗಿ ಕೆಲಸಮಾಡುತ್ತಿರುತ್ತೇನೆ. ನಮಗೆ ದೊಡ್ಡಗುಣಿ, ಅರೇನಹಳ್ಳಿ, ಕೊಂಡಿಕ್ರಾಸ್ ಸುತ್ತಮುತ್ತ ಅರಣ್ಯ ಪ್ರದೇಶ ಸೇರುತ್ತದೆ. ಸದರಿ ಅರಣ್ಯ ಪ್ರದೇಶದಲ್ಲಿ ಸರ್ಕಾರದ ವತಿಯಿಂದ ನೀಲಗಿರಿ ಅಕೇಷಿಯಾ ತ್ಯಾಗ ಹಾಗೂ ಇನ್ನು ಇತರೆ ಸಸಿಗಳನ್ನು ಹಾಕಿದೇವು ಅದರ ಉಸ್ತುವಾರಿಯನ್ನು ನಾವುಗಳು ನೋಡಿಕೊಳ್ಳುತ್ತಿದ್ದೇವು ದಿನಾಂಕ 23/7/11 ರಂದು ರಾತ್ರಿ 10 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಮಗೆ ಬಂದ ಖಚಿತ ವರ್ತಮಾನದ ಮೇರೆಗೆ ಅರೇನಹಳ್ಳಿ ಅರಣ್ಯ ಪ್ರದೇಶದಲ್ಲಿ ನೀಲಗಿರಿ ಪೋಲುಗಳನ್ನು ಕಡಿಯುತ್ತಿದ್ದಾರಂತೆ ಬಂದ ಖಚಿತ ವರ್ತಮಾನದ ಮೇರೆಗೆ ಅರೇನಹಳ್ಳಿ ಅರಣ್ಯ ಪ್ರದೇಶದೊಳಗೆ ನಾನು ನನ್ನ ಜೊತೆ ಅರಣ್ಯ ರಕ್ಷಕನಾದ ಸಿದ್ದಲಿಂಗಮೂರ್ತಿ ಮತ್ತು ವಲಪಾಲಕರಾದ ಜಯಲಕ್ಷಮ್ಮ ರವರುಗಳು ಬೈಕ್‌ನಲ್ಲಿ ಹೋಗಿ ಸುಮಾರು 500 ಮೀಟರ್ ದೂರದಲ್ಲಿ ಬೈಕ್‌ಗಳನ್ನು ನಿಲ್ಲಿಸಿ ನಾನು ಮತ್ತು ಸಿದ್ದಲಿಂಗಮೂರ್ತಿ ಒಂದು ಕಡೆಯಿಂದ ಹೋಗಿ ಚಾರ್ಜ್ ಬ್ಯಾಟರಿಯನ್ನು ಹಾಕಿ ನೋಡುತ್ತಿದ್ದಾಗ, ಒಂದು ಕಡೆಯಿಂದ ಟ್ರಾಕ್ಟರ್ ಬಂದಿತು. ಟ್ರಾಕ್ಟರ್‌ನ್ನು ನಿಲ್ಲಿಸಲು ಹೋದಾಗ ಆತನು ನಿಲ್ಲಿಸದೆ ಓಡಿಸಿಕೊಂಡು ಹೋಗಲು ಪ್ರಯತ್ನಪಟ್ಟ ನಂತರ ನಾವು ಟ್ರಾಕ್ಟರ್ ನಿಲ್ಲಿಸಿ ನೋಡಲಾಗಿ ಅದು ಕೆಂಪು ಬಣ್ಣದ ಸಾಮ್ರಾಟ್ ಕಂಪನಿಯ ಕೆಎ-11-ಟಿ-5247 ನೇ ಟ್ರಾಕ್ಟರ್ ಆಗಿದ್ದು ಅದರ ನಂಬರ್ ಸ್ಪಷ್ಟವಾಗಿ ಕಾಣತೀರಲಿಲ್ಲ ಟ್ರಾಕ್ಟರ್‌ನ್ನು ಓಡಿಸುತ್ತಿದ್ದವನು ತಿಮ್ಮರಾಜು ಬಿನ್ ಧನಹುಚ್ಚ, ಕಂಚಗನಹಳ್ಳಿ, ಟ್ರಾಕ್ಟರ್ ಮೇಲೆ ಆತನ ತಂದೆ ಧನಹುಚ್ಚನು ಇದ್ದ ಆಗ ಏತಕ್ಕೆ ಸರ್ಕಾರಿ ಅರಣ್ಯದೊಳಗೆ ಹೋಗಿ ಕಳ್ಳತನದಿಂದ ನೀಲಗಿರಿ ಮರ ಕಡಿಕೊಂಡು ಹೋಗುತ್ತೀಯಾ ಎಂದು ಹೇಳಿದ್ದಕ್ಕೆ ಇಬ್ಬರು ಸೇರಿ ನಮ್ಮನ್ನು ಅವ್ಯಾಚ್ಛ



HC-KAR

NC: 2026:KHC:8521
CRL.A No. 809 of 2013

ಶಬ್ದಗಳಿಂದ ಬಾಯಿಗೆ ಬಂದಂತೆ ಬೋಳಿ ಮಕ್ಕಳಾ ಸೋಣಿ ಮುಂಡರ ನೀವು
ಯಾರು ನಮ್ಮನ್ನು ಕೇಳುವುದಕ್ಕೆ ಎಂತ ಇತ್ಯಾದಿಯಾಗಿ ಬೈದು ನಾವುಗಳು
ಸಾವಿರಾರು ಗಂಧದ ಮರಗಳನ್ನು ಕಡಿದುಕೊಂಡು ಹೋದಾಗ ಯಾರು ನಮ್ಮನ್ನು
ಕೇಳಲಿಲ್ಲ ನೀವು ಯಾರು ಕೇಳುವುದಕ್ಕೆ ಎಂತ ಕೂಗಾಡುತ್ತಾ ಟ್ರಾಕ್ಟರ್‌ನಲ್ಲಿದ್ದ
ನೀಲಗಿರಿ ಮರಗಳ ಪೋಲ್‌ನ್ನು ಸುರಿದು ನಾವುಗಳು ಹಿಡಿದುಕೊಳ್ಳಲು ಹೋದಾಗ
ಧನಹುಚ್ಚನು ಆತನ ಮಗನಾದ ತಿಮ್ಮರಾಜನಿಗೆ ಟ್ರಾಕ್ಟರ್‌ನ್ನು ಅವರ ಮೇಲೆ
ಹೊಡೆದು ಸಾಯಿಸಿಬಿಡುವಂತೆ ಹೇಳಿದ. ಆಗ ತಿಮ್ಮರಾಜನು ಟ್ರಾಕ್ಟರ್‌ನ್ನು
ಜೋರಾಗಿ ನಮ್ಮ ಮೇಲೆ ಹೊಡೆದು ಸಾಯಿಸಲು ಬಂದ ಆಗ ನಾವು
ತಪ್ಪಿಸಿಕೊಂಡೇವು. ಟ್ರಾಕ್ಟರ್‌ನ್ನು ನಿಲ್ಲಿಸದೆ ಜೋರಾಗಿ ಓಡಿಸಿಕೊಂಡು ಹೋದರು.
ನಂತರ ನಾವುಗಳು ಅರಣ್ಯ ಪ್ರದೇಶದೊಳಕ್ಕೆ ಹೋಗಿ ನೋಡಿದಾಗ ಅಲ್ಲಿ
ಮರಗಳನ್ನು ಕಡಿದಿರುವ ಗುರುತು ಸಿಕ್ಕಿತು. ನಂತರ ದಿ.24/7/2011 ರಂದು
ಸ್ಥಳಕ್ಕೆ ಹೋದಾಗ ಅರೇನಹಳ್ಳಿ ಕೆರೆ ಅಂಗಳದಲ್ಲಿ ರಾತ್ರಿ ಕಳ್ಳತನದಿಂದ ನೀಲಗಿರಿ
ಮರಗಳನ್ನು ಕಡಿದು ಹಾಕಿದ್ದ ಪೋಲ್‌ಗಳು ಅಲ್ಲಿ ಬಿದ್ದಿದ್ದವು. ಅವುಗಳ ಬುಡಗಳನ್ನು
ಮತ್ತು ಆರೋಪಿಗಳನ್ನು ಕಳ್ಳತನದಿಂದ ಕಡಿದ ಬುಡಗಳನ್ನು ಹೋಲಿಕೆ
ಮಾಡಲಾಗಿ ಒಂದೆ ಆಗಿದ್ದವು. ನಂತರ ನಾವು ಬೇರೊಂದು ಟ್ರಾಕ್ಟರ್‌ನಲ್ಲಿ
ನೀಲಗಿರಿ ಮರಗಳನ್ನು ಹಾಕಿಕೊಂಡು ಗುಬ್ಬಿ ಅರಣ್ಯಾಧಿಕಾರಿ ಕಛೇರಿಗೆ
ಸಾಗಿಸಿದೇವು. ಅವುಗಳು 39 ನೀಲಗಿರಿ ಮರದ ಪೋಲ್‌ಗಳಿದ್ದವು. ಈ ಬಗ್ಗೆ
ನಮ್ಮ ಕಛೇರಿಯಲ್ಲಿ ಎಫ್ ಓ.ಸಿ 9/11 ಕಲಂ 24 (ಇ) 71 ಎ ಆಫ್ ಕೆ.ಎಫ್
ಆಕ್ಟ್ 1963 ರೋಲ್ 144 ಅಪ್ ಕೆ.ಎಫ್.ಆರ್ 1969 ರೀತ್ಯಾ
ಅರೋಪಿಗಳಾದ ತಿಮ್ಮರಾಜು ಬಿನ್ ಧನಹುಚ್ಚಯ್ಯ, ಧನಹುಚ್ಚಯ್ಯ @
ಧನಂಜಯ ಬಿನ್ ತಿಮ್ಮಯ್ಯ, ಕಂಚಗನಹಳ್ಳಿ, ಗುಬ್ಬಿ ತಾಲ್ಲೂಕ್ ಇವರುಗಳ
ವಿರುದ್ಧ ಪ್ರಕರಣ ದಾಖಲಿಸಿದೇವು. ದಿನಾಂಕ 01/8/11 ರಂದು ನಮ್ಮ ಅರಣ್ಯ
ಪ್ರದೇಶದಲ್ಲಿ ಕಳ್ಳತನ ಮಾಡಿಕೊಂಡು ಹೋಗಲು ತಂದಿದ್ದ ಕೆಎ-11-ಟಿ-5247
ನೇ ಟ್ರಾಕ್ಟರ್‌ನ್ನು ತೀರ್ಥಪುರ ಅರಣ್ಯ ಪ್ರದೇಶದಲ್ಲಿ ಪಂಚನಾಮೆ ಮೂಲಕ
ಅಮಾನತ್ತು ಪಡಿಸಿಕೊಂಡರು. ಆರೋಪಿಗಳು ಅರೇನಹಳ್ಳಿ ಅರಣ್ಯ ಪ್ರದೇಶಕ್ಕೆ
ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿ ಕಳ್ಳತನದಿಂದ ನೀಲಗಿರಿ ಮರಗಳನ್ನು ಕಡಿದು
ಅವ್ಯಾಚ್ಚ ಶಬ್ದಗಳಿಂದ ಬೈದು ಸರ್ಕಾರಿ ಕೆಲಸಕ್ಕೆ ಅಡಚಡಣೆ ಮಾಡಿ, ಕೂಲಿ
ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ಕೆಎ-11-ಟಿ-5247 ನೇ ಟ್ರಾಕ್ಟರ್ ಮೇಲೆ ಹತ್ತಿಸಲು
ಬಂದಿರುತ್ತಾನೆ. ಆರೋಪಿಗಳನ್ನು ಮತ್ತು ಕೃತ್ಯಕ್ಕೆ ಉಪಯೋಗಿಸಿದ್ದ ಕೆಎ-11-ಟಿ-



5247 ನೇ ಟ್ರಾಕ್ಟರ್‌ನ್ನು ಮರಕಡಿಯಲು ಉಪಯೋಗಿಸಿದ್ದ ಮಚ್ಚು, ಕೊಡಲಿ,
ರಂಫ ನೋಡಿರುತ್ತೇನೆ. ಪುನಃ ನೋಡಿದರೆ ಗುರುತಿಸುತ್ತೇನೆ."

14. The prosecution has examined the complainant, D.S.Siddalingamurthy as PW-1. He has deposed in his evidence that since Eight (8) years he is working as a Forest Guard in Gubbi Range Forest Office. PW-2, Marannna and PW-3, Jayalakshamma are Forest Guards. That on 23.10.2011, PW-1 along with PW-2 and PW-3 went to Theertha Ramapura Forest, which belongs to the Department of Forest. Then, they found a tractor loaded with wood. Then, they parked their bike and proceeded by walk in the forest. One Maranna along with him, Ningegowda, Jayalakshamma were on the other side. They have found that there are eucalyptus (neelagiri) trees in the tractor. They tried to apprehend the persons who were in the tractor, by name Thimmaraju and Dhanucchaiah. On seeing them, they fled without stopping the tractor. They have witnessed the same in torch light. They have found the place of cutting of eucalyptus trees. The accused threatened them and fled away. On the next



day at 08.00 am., they conducted mahazar and reported the same to the Forest office. They filed the complaint on 24.07.2011 at 7.00 pm. thirty Nine (39) eucalyptus trees were cut down. They also informed the same to the Range Forest Officer, Gubbi. Then, lodged a complaint to the police. After filing the complaint, police came to the spot and conducted mahazar and also recorded their statement. That on 07.09.2011, they have seized the tractor and handed over the same to District Forest Office. This witness was partly treated as hostile witness with the permission of the Court and was cross-examined.

15. PW-2/Maranna, Forest Guard, has deposed in his evidence that since Eleven (11) years he is working as a Forest Guard in Doddaguni Forest Range. PW-3/Jayalakshamma and PW-1/D.S.Siddalingamurthy are also working as Forest Guards in the said Forest Range. On 23.07.2011, he went to Doddaguni in the evening. He has received a phone call between 8.00 to 8.30 pm. Gangegowda informed him over phone to come near his



Quarters. Then, he went there. Gangegowda informed him as to the cutting of the trees in the Arenahalli Plantation and also told him and Siddalingamurthy to go to Arenahalli Plantation. By that time, Siddalingamurthy came there. He and Siddalingamurthy proceeded on Hero Honda motorcycle. Thereafter, Forester and Jayalakshmamma also went near Arenahalli Plantation. They heard the sound of cutting of trees in tank bed area. They also heard the sound of tractor and found the light and they stopped the tractor. The tractor driver stopped the tractor and abused them in singular language. Then, all four persons went there. The accused were in tractor. Then they started the tractor. Again, they prevented the tractor to stop. But they did not stop the tractor and they tried to run the tractor upon them and then, they escaped. He did not know the company of the tractor. After lapse of 3 to 4 days, they came to know that tractor was seized. Thereafter, he has not witnessed the same and has not seen the saw and axe used for cutting the eucalyptus trees and police have not recorded his statement. This witness also partly treated as



hostile witness and cross-examined by the Public Prosecutor.

16. PW-3/Jayalakshamma has deposed in her evidence that since six (6) years she is working as Forest Guard in Gubbi Forest Range and she is Forest Watcher in Arenahalli Kondli Cross, Doddaguni, which comes under forest area. Neelagiri, acaesia, kaaduthangadi trees are grown in the forest. They are supervising all the trees. That on 23.07.2011, Forest officer Gangegowda received information as to cutting of neelagiri trees in Arenahalli forest area. As per phone message, Siddalingamurthy, Gangegowda, Maranna and herself proceeded in two scooters and found the tractor, which was loaded with neelagiri poles. Then, the accused abused them in filthy language and also tried to run the tractor upon them. Then, they took away the tractor by unloading the neelagiri poles in Arenahalli tank bund area. He do not know the intention of the accused and there were 39 neelagiri poles in the tractor. On the next day, they shifted



neelagiri poles in another tractor to the forest office, Gubbi. On the next day, police came to the spot. Police have not recorded her statement. This witness was also partly treated as hostile witness and cross-examined by the Public Prosecutor.

17. PW-4/Nagaraju, the daily wage employee working in Forest Department, Gubbi Range has deposed in his evidence that since Twenty Five (25) years he is working as daily wage employee in Forest Department, Gubbi Range. One Krishnappa was also working as a daily wage employee. The Forest Guard, Siddalingamurthy came there and conducted the mahazar as to the cutting of Thirty Nine (39) neelagiri trees and conducted the mahazar as per Ex.P2.

18. PW-5/Rajanna has deposed in his evidence that police have conducted seizure mahazar Ex.P3 when the accused have produced the axe and chopper.



19. PW-6/Ramachandraiah has deposed in his evidence that police have conducted mahazar as per Ex.P4 and seized one tractor and trailer under the massacre.

20. PW-7/Radha.D.C., has deposed in her evidence that she is working as Deputy Range Forest Officer in Gubbi Forest Range and PW-1 Siddalingamurthy was working as Forest Guard. Gangegowda was working as Forest Officer. PW-2/Maranna and PW-3/Jayalakshmamma were working as Forest Watchers in Gubbi Forest Range, Arenahalli of Doddaguni section, which comes under Gubbi Forest Range. Theertha Ramapura Forest Area also comes under their Department. That on 28.07.2011, she has conducted the mahazar as to the cutting of neelagiri trees in Survey No.4 of Arenahalli Village. She has examined the stems of the trees and identified the same in yellow colour and given numbers. That on 01.08.2011, she has received the information that the tractor was parked in Survey No.4 of Karadikallu Village. Herself, Gangegowda, Ramachandraiah and Nijalingaiah went there. The tractor



was parked in front of the house of Saravanna. The tractor was red in colour of Samrat company. Trailer was also there. The registration number of the tractor tallied with the tractor number shown in the FIR. They enquired one lady by name Bhavani and she told that she do not know who is the owner of the tractor. Then, they have seized the tractor under mahazar, Ex.P4. She has also deposed that on 28.07.2011, they have conducted mahazar as per Ex.P5 in the forest area.

21. PW-8/Gangegowda has deposed in his evidence that since July 2011, he is working as Deputy Forest Officer in Gubbi Forest Range. PW-7 Radha was the Deputy Range Forest Officer; PW-1/Siddalingamurthy was Forest Guard. PW-2/Maranna and PW-3/Jayalakshamma were Forest Watchers working in Doddaguni Section, Gubbi Forest Range. Further, he has deposed that on 23.07.2011 at 11.00 am, when he was in Headquarters, PW-2/Maranna came and informed him that one tractor is going in a forest area to cut down the trees. Then, he informed the



same to Forest Guard Siddalingamurthy and Forest Watcher PW-3 Jayalakshamma and sent them to the spot, i.e., Arenahalli. Then, all the four proceeded to the Arenahalli forest area in two bikes. In order to avoid the sound of motorbike, they stopped the motorcycle at the distance of half a kilometre and proceeded in the forest area with the aid of torch light and they formed two groups; one is Siddalingamurthy and Maranna and another himself and one Jayalakshamma and proceeded. They witnessed that the driver of the tractor tried to take away the tractor from the forest area. Then, Siddalingamurthy and Maranna stopped that vehicle. He and Jayalakshamma found as to the tractor loaded with Neelagiri trees. Tractor was run by Thimmaraju. Dhanuchaiah was sitting by his side. Then they enquired the accused as to the cutting of neelagiri trees. Then, they told them that 'who are you to ask them'? Then they told them that they have committed illegal activities and they will seize tractor and trailer. The tractor engine number was not found on the engine. The tractor was red in colour



and by name Samrat. By that time, when they tried to seize the tractor, Thimmaraju told the driver Dhanucchaiah to run the tractor upon them and abused them. He will look after all the expenses and they escaped from that place in the tractor. Then, they found the tractor registration number as KA-11-T-5247. They chased the tractor for some distance but they could not trace out the tractor. Thereafter, they came to the spot and found the neelagiri trees. They witnessed the spot where they have cut down the trees and found that 39 neelagiri trees were cut down. They identified the same and gave numbers with yellow colour. On the same day, they conducted mahazar as per Ex.P6. Thereafter, they informed the same to the RFO and he has lodged a complaint to the police as per Ex.P7. Further, he has deposed as to the mahazar Ex.P8. He has also deposed as to the seizure of tractor under mahazar Ex.P4 and seizure of neelagiri poles under mahazar Ex.P9 and seizure of tractor under mahazar Ex. P10 and RFO has prepared enquiry report as per Ex.P11 and has identified by the accused Nos.1 and 2. On the



date of incident, the accused have prevented them by disturbing their public duties and attempted to kill them by running tractor upon them.

22. PW-9/Dinesh Patil and PW-10/G.C.Nagaraju and PW-11/Ashok Kumar, Sub-Inspectors of Police have deposed as to their respective investigation.

23. On careful examination of the entire evidence based on the record, it is clear that the alleged incident took place on 23.07.2011. The complaint, Ex.P12 came to be filed on 24.07.2011 at 19.00 hours. On the basis of this complaint, Sub-Inspector of Police, Cheluru Police Station registered the case in Crime No.98 of 2011 against accused Nos.1 and 2 for the commission of offence under Sections 307, 379, 447, 353, 504 r/w Section 34 of IPC and submitted the FIR to the court on 25.07.2011 at 03.00 pm. In column No.13 of the FIR, which is marked as Ex.P13, it is stated that the date and time of dispatch of FIR is 24.07.2011 at 19.30 hours. But the learned Magistrate has endorsed on Ex.P13 FIR that he has



received the FIR on 25.07.2011 at 03.00 pm. None of the prosecution witnesses have deposed as to the delay in filing the complaint and also the delay in submitting the FIR to the Court. PW-1/Siddalingamurthy, the complainant has not deposed in his evidence as to the tractor and trailer number. Even Ex.P12, complaint does not reveal as to the registration number of tractor and trailer, which was involved in the crime.

24. Though PW-1 to PW-3 are the forest officials, they have not filed a complaint at the earliest point of time. PW-1 to PW-3 being Forest Officials would have registered the case *suo-motu* under Section 447 of Indian Penal Code and penal provisions of the Forest Act and Rules. But they have not done so. Therefore, the delay in submitting the FIR to the court will create a reasonable doubt as to the alleged crime.

25. PW-1/Siddalingamurthy and PW-3/ Jayalakshmamma have not deposed as to the fact that the accused tried to kill them by running over tractor upon them, and he was



treated as partly hostile witness. PW-2 has deposed in his evidence that accused have stopped the tractor. When they stopped the tractor, he would have taken out the key of the tractor. But he has not done so. Further, he has deposed that again, the accused started tractor. Then, they tried to prevent them. But they did not stop the tractor and tried to run the tractor upon them. The Investigation Officer has conducted Ex.P2 mahazar on 26.07.2011 in Survey No.4 of Arenahalli regarding cutting of 39 neelagiri trees. Though the Investigating Officer has seized 39 neelagiri poles on 26.07.2011, he has not inserted the same in property form. Ex.P2 mahazr submitted to the Court on 18.04.2012 though the police have seized 39 neelagiri poles under Ex.P2, they have not reported the same to the Court as required under Section 102 of Cr.P.C.

26. Ex.P3 is the mahazar conducted by the police on 05.09.2011. The police have seized the saw, axe and chopper, which were used for cutting of neelagiri trees.



Though the police have seized the M.O.Nos.1 to 3 under mahazar Ex.P3 on 05.08.2011, the Investigation Officer has inserted the same on 05.09.2011 and submitted to the Court on 06.09.2011. The delay in submitting the seizure report has not been explained by the Investigating Officer. The Investigating Officer has not collected the Registration of Certificate pertaining to the Tractor. The Investigating Officer has also not explained anything as to the non-production of registration certificate. The Investigating Officer has also not explained anything as to the non-examination of the owner of the tractor. Till this day, the tractor is in the custody of concerned Department. The prosecution has failed to explain how the accused have taken tractor from the possession of the owner. All these material lapses will create reasonable doubt as to the of alleged offence said to have been committed by the accused. The victims have not sustained any injuries. The Investigating Officer has not collected the driving licence of the accused No.1 who was the driver of the tractor at the time of commission of alleged offence. The



Investigating Officer has not deposed anything as to whether the driver of the tractor who is accused No.1, was having a valid licence to drive the tractor or not. The Investigating Officer has also not submitted charge sheet against the accused No.1 for the offence under Section 3 read with Section 181 or Section 5 read with 180 of Indian Motor Vehicles Act against owner of the vehicle, if he has entrusted the vehicle to accused No.1 if he was not having a valid driving licence at the relevant point of time.

27. The IO has also not produced any document to show that the Survey.No.4 of Arenahalli Village belongs to Forest Department. Since the IO has failed to produce the material evidence before this Court, the sole and interested testimony of the official witnesses, is not sufficient to come to the conclusion that the accused have committed the alleged offences. The trial Court has not properly appreciated the material on record in proper perspective.



28. On re-appreciation, re-consideration and re-examination of the entire material on record, I do not find cogent, convincing, corroborative, clinching and trustworthy evidence to convict the accused for the commission of alleged offences. The prosecution has failed to place sufficient materials to prove the essential ingredients of the commission of alleged offences. Hence, the impugned judgment of conviction and sentence passed by the trial Court is not sustainable under law. Accordingly, I answer Point No.1 in Negative.

Regarding Point No.2

29. For the aforesaid reasons and discussions, I proceed to pass the following:

O R D E R

- (i) Appeal is ***allowed***;
- (ii) The judgment of conviction and order on sentence dated 05.08.2013 passed in S.C.No.184/2012 by the Principal District and Sessions Judge, Tumkuru, is set aside;



(iii) Accused/appellants are acquitted of the offence under Sections 447, 353, 504 and 307 read with Section 34 of Indian Penal Code;

(iv) The trial Court is directed to refund the fine amount, if any deposited by the appellants.

(v) The bail bond of the accused shall stand cancelled.

Registry is directed to send the copy of the judgment along with Trial Court records to the concerned Court.

**Sd/-
(G BASAVARAJA)
JUDGE**

DHA
List No.: 1 Sl No.: 72