



CNR: KAHC010439372019

NC: 2026:KHC:47154-DB
CRL.A No. 1708 of 2019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.1708 OF 2019

BETWEEN:

1. THE STATE BY
BANNURU POLICE STATION,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-560001.

...APPELLANT

(BY SRI. CHENNAPPA ERAPPA, HCGP)

AND:

1. HANUMANTHA,
S/O JANARDHAN,
AGED ABOUT 27 YEARS.
2. KRISHNEGOWDA,
S/O NARAYANA,
AGED ABOUT 30 YEARS.
3. BASAVARAJU,
S/O DEVAIAHNA SOME Gowda,
AGED ABOUT 26 YEARS.
4. SRINIVASA,
S/O LATE KULLA VENKATAPPA
@ KULLA VENKATEGOWDA,

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



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AGED ABOUT 47 YEARS.
[R-4 ABATED, VIDE ORDER DATED 08.11.2021]

ALL ARE R/O
MARAGOWDANA HALLI VILLAGE,
T. NARASIPURA,
MYSURU DISTRICT-571124.

...RESPONDENTS

(BY SRI. T.A. KARUMBIAH, ADVOCATE FOR R1 TO R3;
VIDE ORDER DATED 08.11.2021, R4 ABATED)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF Cr.P.C. PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER DATED 10.01.2019, PASSED BY THE COURT OF I ADDITIONAL SESSIONS JUDGE AT MYSURU IN S.C.NO.175/2017, ACQUITTING THE ACCUSED/RESPONDENT, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 341, 324, 307 R/W 34 OF IPC. TO SET ASIDE THE IMPUGNED JUDGMENT AND ORDER DATED 10.01.2019, PASSED BY THE COURT OF I ADDITIONAL SESSIONS JUDGE AT MYSURU IN S.C.NO.175/2017, ACQUITTING THE ACCUSED/RESPONDENT, FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 341, 324, 307 R/W 34 OF IPC BY ALLOWING THIS APPEAL, AND ETC.

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 the learned High Court Government Pleader appearing for the appellant/State and the learned counsel for respondent Nos.1 to 3/accused.

2. This appeal is filed against the judgment of acquittal dated 10.01.2019 passed in S.C.No.175/2017, acquitting the accused for the offences punishable under Sections 341, 324, 307 read with 34 of IPC and prays this Court to set aside the judgment of acquittal and convict the accused and sentence them.

3. The factual matrix of the case of the prosecution is that on 12.06.2016 at about 7.00 p.m., the accused persons in furtherance of common intention, wrongfully restrained P.W.1 and assaulted him with dangerous weapons like machete, stone and club. As a result, he had sustained injuries and an attempt was made to take away the life of P.W.1. The police received



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the complaint, wherein an allegation is made that the complainant is running a petty shop at Maragowdanahalli and all the accused are also from the very same village. Accused Nos.1 to 3 had purchased goods from the shop of the complainant on credit basis and they did not make the payment in respect of the said goods, which they have purchased. On one occasion, accused Nos.1 to 3 had quarreled with the complainant when the latter asked them to pay the dues. That on 12.06.2016 at about 7.00 p.m., the complainant was sitting in front of his shop and at that time, accused Nos.1 to 4 came to his shop and the complainant asked them to pay the dues. The accused abused in a filthy language and accused No.4 Srinivas grappled with the complainant and held him in his grip. The accused No.1 took reaper piece and hit on the left shoulder and accused No.2 hit on the head of the complainant with machete and on account of the same, the complainant sustained bleeding injury and he fell down. After the complainant fell down, accused No.3 threw a stone at him saying that the complainant was alive and he should be killed and he picked up the stone and inflicted injury on the right



knee of the complainant. In the meanwhile, P.W.2 and P.W.3 who are the eye-witnesses to the incident intervened and pacified the galata. C.W.6 Manjunath took the complainant to Bannuru Government Hospital, wherein he was given first aid treatment and was advised to get further treatment at Mysore and he was admitted in Mahadeshwara Hospital, Mysore. He was an inpatient for a period of 20 days. On the basis of medico legal intimation given to police, P.W.12 PSI, called on the complainant at Mahadeshwara Nursing Home at 1.00 p.m. on the next day and recorded the complaint of the complainant as per Ex.P.1. The police registered the case and investigated the matter and filed the charge-sheet. The accused persons were secured before the Trial Court and they did not plead guilty and claimed the trial. Hence, the prosecution examined P.W.1 to P.W.12 and got marked the documents at Exs.P.1 to 14 and M.O.1 to 4 are also marked. The accused was also subjected to 313 statement and he did not lead any defence evidence.

4. The Trial Court considered the material on record, particularly that the case and counter case are registered and



during the course of the cross-examination of witnesses, documents of Exs.D.1 and 2 are also confronted. The Trial Court taken note of the injuries sustained by the complainant in paragraph No.16 and in paragraph No.17 discussed in detail with regard to the evidence of the prosecution witnesses and taken note of contradictions in the evidence of P.W.1, P.W.2 and P.W.5 and taken note of the medical evidence of the doctor with regard to the nature of injuries and weapons which were used i.e., machete, clubs as well as stone, and comes to the conclusion that there is a material discrepancy about the seizure of M.Os.1 to 4 so also the specific overt act made against each of the accused persons. The PSI who held the panchanama of the scene of offence has different story to tell about the seizure of M.Os.1 to 4. P.W.10 PSI states that P.W.2 Krishnegowda produced M.Os.1 to 3 before him at the time of panchanama of the scene of offence thereby denying the statement of P.W.2 about M.Os.1 to 3 having been seized from the scene of offence. The Trial Court also taken note of that the medical evidence is contrary to the evidence of injured witness and also the evidence of eyewitnesses P.W.2 and P.W.3. The



Trial Court also taken note of delay in registering the case and sending the FIR. The FIR had reached the Court on 14.06.2016 at 10.30 a.m. and the incident was taken place on 12.06.2016. The Trial Court having considered the evidence available on record, comes to the conclusion that the evidence of the injured witness and also the other eyewitness' evidence not inspires the confidence of the Court and there are material contradictions and acquitted the accused persons.

5. Being aggrieved by the order of acquittal, the present appeal is filed before this Court.

6. The learned High Court Government Pleader appearing for the appellant/State in his argument would vehemently contend that the Trial Court has committed an error in appreciating the evidence available on record and the evidence of P.W.1 is supported by independent witnesses P.W.2 and P.W.3. The learned counsel would vehemently contend that even the FSL report also supports the case of the prosecution and the exaggerations per se do not render the evidence of the prosecution brittle and it can be one of the



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factors to test credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility. There are minor discrepancies and the Court also cannot expect mathematical niceties while coming to the conclusion with regard to the incident is concerned. The learned counsel would contend that the Trial Court has given importance to minor contradictions in the testimony of prosecution witnesses, which is highly contrary to the law laid down by the Apex Court in the case of **UTTAR PRADESH v. NARESH AND OTHERS** reported in **(2011) 4 SCC 324**, wherein it is held that in all criminal cases, normal discrepancies are bound to occur in the depositions of witnesses due to normal errors of observations, namely, errors of memory due to lapse of time or due to mental disposition such as shock and horror at the time of occurrence. The counsel also vehemently contend that the Trial Court has committed an error in disbelieving the oral testimony of P.W.2 and P.W.3, who are the eyewitnesses to the case of the prosecution. The learned counsel would contend that their evidence corroborates the injured witnesses evidence and



merely because documents Exs.D.1 and 2 are confronted and answers are elicited, the same cannot be a ground. The case and counter cases are registered is not in dispute and whether the accused is acquitted or convicted in other counter case is also immaterial. The very judgment and order of acquittal passed by the Sessions Judge is manifestly unjust and unreasonable and it suffers from its legality and hence, this Court has to interfere with the findings of the Trial Court and reverse the finding.

7. Per contra, the learned counsel for respondent Nos.1 to 3 would vehemently contend that the Trial Court while passing the order has taken note of registration of case and counter case and in the counter case, the complainant was acquitted in C.C.No.678/2016. The learned counsel would contend that even the accused have also sustained injuries and the same is discussed in paragraph No.16 of the judgment of the Trial Court. The Trial Court taken note of the discrepancies in the prosecution evidence in paragraph No.17 and rightly comes to the conclusion that the evidence available on record not inspires the confidence of the Court.



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8. Having heard the learned High Court Government Pleader appearing for the appellant/State as well as the learned counsel for respondent Nos.1 to 3 and also on re-appraisal of the material available on record, the points that would arise for the consideration of this Court are:

- (i) Whether the Trial Court committed an error in acquitting the accused inspite of P.W.1 has sustained injuries and the same is supported by medical evidence and FSL and whether it requires interference of this Court to reverse the acquittal into conviction?
- (ii) What order?

Point No.(i):

9. Having heard the respective learned counsel and also considering the material on record, the charges levelled against the accused is that, they wrongfully restrained the complainant in front of his shop at Maragowdanahalli and in furtherance of their common intention, caused hurt to P.W.1 and also an attempt was made to take away the life of P.W.1. No doubt, the prosecution examined P.W.1 to P.W.12 and particularly, the star witnesses of the prosecution are P.W.1



and P.W.2 and P.W.3, who are the eyewitnesses to the incident. The Trial Court also taken note of when the witnesses are examined, documents of Exs.D.1 and 2 are also confronted and history is shown as assault by Kumar as per Ex.D.1. Exs.D.1 and 2 clearly depicts the history that assault was made at 6.45 p.m. on 12.06.2016 at shop of Maragowdanahalli. Having perused the material on record, when the incident was taken place in the evening on 12.06.2016, there was a delay in lodging the complaint and the Trial Court also taken note of when the injured was taken to the hospital, MLC was issued on the very same day. But statement of the injured was recorded on the next day during afternoon and the Trial Court also taken note of that the complainant and eye witnesses have not come up with the whole truth with regard to the incident and they have only highlighted the role played by the accused. The Trial Court also taken note of with regard to the assault made by Kumar and the documents of Exs.D.1 and 2 and hence, it is very clear that case and counter cases also registered and there was an incident of assault by respective parties.



10. It is also important to note that there is a material discrepancy about the seizure of M.O.1 to M.O.4. P.W.2 Krishnegowda, who pointed out the scene of offence to the police and panchas, states before the Court that M.O.1 machete, M.O.2 reaper piece and M.O.3 stone were seized from scene of offence and he produced M.O.4 shirt before the Investigating Officer at the time of panchanama. But the PSI who held scene of offence panchanama, has a different story to tell about the seizure of M.Os.1 to 4. There is absolutely no whisper in the evidence led by prosecution to show as to how P.W.2 came to possess M.Os.1 to 3 with him. All these anomalies appearing in the prosecution evidence create doubt in the mind of the Court about the genuineness of the case put forth by the prosecution. The Trial Court also taken note of that there is a long delay in recording complaint and also in delivering the FIR to the Court. P.W.5 states that she sent MLC intimation to police during the very night. When such being the case, the complaint Ex.P.1 was recorded on the next day at about 1.00 p.m. P.W.12 Mahadevswamy PC-350 of Bannur Police Station, who has carried FIR to the Court states before



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the Court that, Bannur is 18 kms. away from T.Narasipura Court. Ex.P.13 FIR shows that the same reached the Court on 13.06.2016 at 6.30 p.m., but handed over to the Court on the next day on 14.06.2016 at 10.30 a.m. These are the discrepancies which were taken note of by the Trial Court with regard to the delay in sending the FIR and the same also discloses that it is nothing but a due deliberation in registration of the case inspite of incident was taken place in the previous day. This Court would like to extract paragraph No.17 of the judgment of the Trial Court, which reads as follows:

"17. The evidence of LMO and PSI PW8 probabilize the defence of accused that, complainant and his men assaulted accused 2 and 3 on the day of incident at 6.45 p.m. If the evidence of complainant and eye witnesses is examined in the light of evidence of PW 5, LMO and PW 8 PSI, it appears crystal clear that, complainant and eye witnesses are not stating the truth before the Court and they are purposely suppressing the role played by them. It is pertinent to note that, complainant has said before the Court that, after the incident he was taken to Bannuru Hospital by CW6 Manjunath on Scooter. However, eye witness namely PW2 Krishnegowda states that, complainant was removed to hospital in



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a luggage van. Contrary to this, PW3 says that, he was removed to hospital in ambulance. PW5 LMO states before the Court that, when complainant was brought to the hospital, he was subconscious. Even PW7 Doctor of Sri Malinga Nursing Home states that, when complainant was brought to his hospital he was in subconscious state. It is highly inconceivable that a person in subconscious state could go to hospital in a Scooter as is sought to be made out by complainant. Complainant is not consistent with regard to assault on his person. He states before the Court that, 2nd accused Krishnegowda hit on his head with machete at 4 places. He wants us to believe that, 4 blows were given with machete, whereas Krishnegowda eye witness empathetically states that 2nd accused Krishnegowda gave only one blow on the head of complainant. Even eye witness PW 3 Vittal does not whisper about 4 blows being given with machete. There is also no whisper in the complaint about 4 blows having been given by 2nd accused Krishnegowda. In the complaint Ex.P-1 the complainant states that, 1st accused Hanumantha assaulted him with club on his right hand and left upper arm. In his statement before the Court he states that, 1st accused hit him with reaper piece on his right shoulder and left upper arm. There is absolutely no whisper in the complaint about assault



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with reaper piece. It is needless for me to point out that, club [Donne] is different from reaper piece. There is a material discrepancy about the seizure of MO 1 to MO 4. PW2 Krishnegowda who pointed out the scene of offence to Police and panchas states before the Court that, MO 1 machete, MO2 reaper piece and MO3 stone were seized from scene of offence and he produced MO 4 shirt before the Investigating Officer at the time of panchanama. But the PSI who held scene of offence panchanama has different story to tell about the seizure of MO1 to MO 4. PW10 PSI states before the Court that, PW2 Krishnegowda produced MO1 to MO3 before him at the time of panchanama of scene of offence thereby denying the statement of PW2 about MO1 to MO3 having been seized from the scene of offence. There is absolutely no whisper in the evidence lead by prosecution to show as to how PW 2 came to possess MO1 to MO3 with him. All these anomalies appearing in the prosecution evidence create doubt in the mind of the Court about genuineness of the case put forth by the prosecution. To crown all these discrepancies, there is a long delay in recording complaint so also in delivering F.I.R. to the Court. PW5 LMO states that, she sent MLC intimation to Police during the very night. When such is the case, I am at a loss to know as to why recording of complaint Ex.P-1 was done on



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the next date that too at about 1.00 p.m. PW12 Mahadevswamy PC 350 of Bannuru Police Station who has carried F.I.R. to the Court states before the Court that, Bannuru is 18 kms away from T.Narasipura Court. Ex.P-13 F.I.R. shows that it was sent to Court on 13.06.2016 at 6.30 p.m. If F.I.R. was handed over to PW 12 on 13.06.2016, why it came to be received by concerned JMFC on the next day i.e. 14.06.2016 at 10.30 a.m. The explanation of P.W. 12 that no buses were available during night time so as to reach T.Narasipura cannot be accepted. The delay in sending F.I.R. creates doubt in the mind of the Court about the genuineness of the case put forth by the prosecution more so when the evidence of prosecution suffers from number of anomalies stated supra.”

11. Having extracted paragraph No.17 and considering the discrepancy found in the evidence, particularly with regard to the very incident is concerned and also the very reasoning given by the Trial Court in passing the judgment, we do not find any ground to come to a other conclusion to reverse the judgment of acquittal into conviction in view of the principles laid down in the judgment of the Apex Court in the case of **MALLAPPA AND OTHERS v. STATE OF KARNATAKA**



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reported in **(2024) 3 SCC 544**. 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 any two views are possible also, the benefit goes in 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):

12. 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**

MD
List No.: 1 Sl No.: 20