



CNR: KAHC010451382015

NC: 2026:KHC:42053
CRL.A No. 1329 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 6TH DAY OF AUGUST, 2026
BEFORE
THE HON'BLE MR. JUSTICE S RACHAIAH
CRIMINAL APPEAL NO. 1329 OF 2015 (A)

BETWEEN:

STATE BY AMASEBAILU POLICE -576 227

...APPELLANT

(BY SRI.LAXMAN B., HCGP)

AND:

1. SATHISH SHETTY
34 YEARS, S/O SANJEEVA SHETTY
R/O ADDA HOLEMANE
SHEDIMANE VILALGE – 576 227
2. SURESH SHETTY
34 YEARS, S/O SANJEEVA SHETTY
R/O ADDA HOLEMANE
SHEDIMANE VILLAGE – 576 227
3. SANTHOSH SHETTY
41 YEARS, S/O SANJEEVA SHETTY
R/O ADDA HOLEMANE
SHEDIMANE VILLAGE – 576 227
4. MOHAN K
41 YEARS, S/O M. KRISHNAPPA

Digitally
signed by
SUSHMA
LAKSHMI B
S
Location:
High Court
of Karnataka



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R/O ESHWAR TEMPLE BEEDI
KOLLEGALA , H.NO.-5-42
CHAMARAJ NAGAR – 571 440

5. MAHABALESHA
29 YEARS, S/O LINGA POOJARY
R/O H.NO.36, BEHIND GOVT. BUS STAND
2ND CROSS, SIRSI TALUK, U.K.-581 401
6. UMESH H.R.
36 YEARS, S/O RAMA SHETTY
R/AT 74TH MAIN, 7TH CROSS
VIJAYA NAGAR, BANGALORE – 560 040

...RESPONDENTS

(BY SRI. B VIJAY SHETTY, ADVOCATE AND
SRI.V.J. UMESH, ADVOCATE FOR R1 TO R3)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) CR.P.C BY SPP FOR THE APPELLANT PRAYING TO i)GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 24.07.2015 IN C.C.NO. 1706/2009 ON THE FILE OF THE COURT OF ADDL. CIVIL JUDGE AND JMFC, KUNDAPUR, ACQUITTING THE RESPONDENTS/ACCUSED NO.1 TO 6 OF THE OFFENCES P/U/S 143,147,148,448,323,324, 504,506,363 R/W 149 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE S RACHAIAH



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ORAL JUDGMENT

This criminal appeal is filed by the appellant/State, being aggrieved by the judgment of acquittal dated 24.07.2015 passed in CC.No.1706/2009 by the Additional Civil Judge and JMFC, Kundapur, for the offences punishable under Sections 143, 147, 148, 448, 323, 324, 504, 506, 363 r/w 149 of Indian Penal Code, 1860 (for short, 'IPC').

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 on 08.04.2009, at about 06.30 am, accused Nos.1 to 6 in furtherance of common object, formed an unlawful assembly and committed rioting armed with deadly weapon like wooden clubs and also chilly powder, trespassed into the house of C.W.1, abused C.W.1 with filthy language and threatened with dire consequences and assaulted C.W.1 with wooden club and thrown chilly powder and later, C.W.1 had been kidnapped by them. Hence, the complaint. Based on the said complaint, the



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respondent-Police have registered the case, conducted investigation and submitted the charge sheet. The Trial Court acquitted the accused for the above said offence. Hence, the State has preferred this appeal.

4. To prove the case of the prosecution, the prosecution examined 02 witnesses as PWs.1 and 2 and got marked 03 documents as Exs.P1 to P3. On the contrary, defence has not either chosen to examine nor got marked the documents. The Trial Court after appreciating both oral and documentary evidence, acquitted the accused for the above said offences. Hence, the State has preferred this appeal.

5. Heard Sri.M.V.Anoopkumar, learned Additional State Public Prosecutor for the appellant and Sri.B.Vijay Shetty and Sri.V.J.Umesh, learned counsels for respondent Nos.1 to 3.

6. The submission of the learned High Court Government Pleader for the appellant-State that the impugned judgment and order passed by the Trial Court is not proper and appropriate. The same is against to the evidence on record. Therefore, the same is liable to be set aside.



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7. It is further submitted that the Trial Court has not given sufficient opportunity to the prosecution to examine all the witnesses. The Trial Court committed error on appreciating the evidence of P.Ws.1 and 2. Even though both the witnesses have turned hostile, conviction ought to have been held on the basis of the evidence of other witnesses.

8. It is further submitted that the procedure adopted by the Trial Court in restricting the prosecution to examine other witnesses is unwarranted and the said method seems to be unethical. Therefore, the judgment of acquittal passed by the Trial Court requires to be set aside.

9. To substantiate his contention, learned High Court Government Pleader relied on the judgment of the Hon'ble Supreme Court in the case of **BABLU KUMAR AND OTHERS VS. STATE OF BIHAR AND ANOTHER¹**. Making such submissions, learned High Court Government Pleader for appellant-State prays to allow the appeal.

¹ (2015) 3 Crimes 182 (SC)



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10. *Per contra*, learned counsel for respondent Nos.1 to 3 vehemently submitted that the findings of the Trial Court in respect of acquittal against the accused is proper and appropriate. The alleged injured witness has turned hostile and not supported the case of the prosecution. Such being the fact, continuing the proceedings would not serve any purposes. Hence, the Trial Court after appreciating the evidence of the witnesses rightly recorded the acquittal, which calls for no interference. Moreover, the contention of the learned prosecutor is not proper. Hence, the appeal has to be dismissed.

11. Having heard the learned counsel for the respective parties and also on perusal of the findings of the Trial Court, it appears that a complaint came to be registered by the complainant stating that he had been assaulted by accused Nos.1 to 6 and also he had been kidnapped by them. However, in his evidence, P.W.1 has turned hostile and not supported the case. Even though he has been treated as hostile and cross-examined by the prosecution, nothing has been elicited to



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support the case of the prosecution. Similarly, P.W.2 also turned hostile and not supported the case of the prosecution.

12. When the material witnesses have not supported the case of the prosecution, rendering the conviction based on the evidence of other witnesses, in my considered view highly improbable. Moreover, the prosecution has not filed any application for conducting the examination of other witnesses.

13. Having considered the findings given by the Trial Court in rendering the acquittal is proper and appropriate. Therefore, the said judgment of acquittal warranted no interference. Hence, I proceed to pass the following:

ORDER

The appeal stands ***dismissed***.

Ordered accordingly.

**Sd/-
(S RACHAIAH)
JUDGE**