



CNR: KAHC010770362025

NC: 2026:KHC:44121-DB
CRL.A No. 2391 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF AUGUST, 2026

PRESENT

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

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO.2391 OF 2025 (A)

BETWEEN:

SRI ASLAM PASHA
SON OF LATE CHAND PASHA
AGED ABOUT 41 YEARS
RESIDING AT ASSAR MOHALLA
SIRA TOWN, SIRA TALUK-572 137
TUMAKURU DISTRICT

...APPELLANT

(BY SRI FAYAZ SAB B. G., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
S.H.O., SIRA POLICE STATION
TUMAKURU DISTRICT-572 137
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BENGALURU-560 001
2. SRI SYED MOHASIN
SON OF LATE SYED GOUSE
AGED ABOUT 48 YEARS
RESIDING AT KHARADI MOHALLA

Digitally signed
by
SHARADAVANI
B



Location: HIGH
COURT OF
KARNATAKA



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SIRA TOWN, SIRA TALUK-572 137
TUMAKURU DISTRICT

3. SRI SYED MUBASHIR
SON OF LATE SYED GOUSE
AGED ABOUT 44 YEARS
RESIDING AT ASSAR MOHALLA
BEEDI COLONY, SIRA TOWN
SIRA TALUK-572 137
TUMAKURU DISTRICT
4. SRI JAVEED PASHA
SON OF EKBAL SAB
AGED ABOUT 38 YEARS
RESIDING AT MAHABOOB NAGARA
TUMAKURU-572 102
5. SRI DADAPEER
SON OF SYED KARIM
AGED ABOUT 30 YEARS
PRESENTLY RESIDING AT
RML NAGARA, 2ND STAGE
SHIVAMOGGA-577 202
6. SRI AYUB KHAN
SON OF NISAR ULLA KHAN
AGED ABOUT 52 YEARS
RESIDING AT SHIRANI MOHALLA
SIRA TOWN, SIRA TALUK-572 137
TUMAKURU DISTRICT
7. SRI SADIK KHAN
SON OF HABEEB ULLA KHAN
AGED ABOUT 31 YEARS
RESIDING AT BEEDI COLONY
SIRA TOWN, SIRA TALUK-572 137
TUMAKURU DISTRICT



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8. SRI SYED SHABUDDIN
SON OF SYED ABBAS
AGED ABOUT 42 YEARS
DRIVER OF KA-06-N-2072, JCB
RESIDING AT JAMIYA MASEEDI ROAD
MEGALAPETE, SIRA TOWN
SIRA TALUK-572 137
TUMAKURU DISTRICT

...RESPONDENTS

(BY SRI CHENNAPPA ERAPPA, H.C.G.P., FOR R-1,
SRI S. DORERAJU, ADVOCATE FOR R-2 TO R-8)

THIS CRL.A. IS FILED U/S. 372 CR.P.C. (U/S. 413 BNSS) BY THE ADVOCATE FOR THE APPELLANT/S PRAYING TO ADMIT THE CRIMINAL APPEAL AND CALL FOR THE RECORDS IN S.C. NO.130/2023 WHEREIN ACTING UNDER SECTION 235(1) OF CR.P.C., THE ACCUSED NOS.1 TO 7/RESPONDENT NOS.2 TO 8 ARE ACQUITTED FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 146, 147, 324, 427, 447, 506 AND 395 READ WITH SECTION 149 OF INDIAN PENAL CODE ON THE FILE OF II ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMAKURU AND FURTHER BE PLEASED TO PASS THE JUDGMENT TO CONVICT/SENTENCE THE ACCUSED NOS.1 TO 7/RESPONDENT NOS.2 TO 8 IN S.C.NO.130/2023 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 143, 146, 147, 324, 427, 447, 506 AND 395 READ WITH SECTION 149 OF INDIAN PENAL CODE BY SETTING ASIDE THE JUDGMENT DATED 06.11.2025 ON THE FILE OF II ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMAKURU.

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

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



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

This matter is listed for admission and we have heard Sri. Fayaz Sab B.G., the learned counsel appearing for the appellant, Sri S.Doreraju, the learned counsel appearing for respondent Nos.2 to 8 and Sri Chennappa Erappa, the learned HCGP appearing for respondent No.1-State.

2. This appeal is filed against the judgment of acquittal dated 06.11.2025 passed by the II Additional District and Sessions Judge, Tumakuru in SC No.130 of 2023 for the offences punishable under Sections 143, 146, 147, 324, 427, 447, 506 and 395 read with Section 149 of IPC.

3. The factual matrix of case of prosecution is that on 03.10.2021 in the early morning at about 02.30 a.m. within the jurisdiction of Sira Police Station at Saba Assessment No.1190-1108/3741 and 1109/3741/1 in the house and beedi godown belongs to CW1, accused Nos.1



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to 7 formed an unlawful assembly with common object, trespassed into the said godown along with JCB bearing Reg.No.KA-52-M/1180 and destroyed the house and beedi godown with the help of JCB by using criminal force, when CW1 to CW3 came to his rescue, the accused persons abused them in filthy language and pushed them from the JCB and caused simple injuries to their left knee and also destroyed the beedi leaves, attom used for arranging the beedis, H/Japan sheets and committed mischief and caused damage to the tune of Rs.7,09,966/- and also the accused committed dacoity by taking away cash of Rs.35,250/- which was kept in the beedi godown and thereby committed the alleged offences.

4. The trial Court took cognizance of the aforesaid offences and complied Section 207 of Cr.PC and committed the case CC No. 384 of 2023 registered the same as SC No. 130 of 2023, and secured the accused persons. They did not plead guilty and claimed to be tried.



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5. Hence, prosecution in order to prove its case, in all examined 13 witnesses as PW1 to PW.13 and got marked 23 documents as Exhibits P1 to P23 and also got marked material object as MO1. On closure of the prosecution evidence, the accused was subjected to 313 statement as contemplated under the provisions of Code of Criminal Procedure. The accused have not led any evidence.

6. The trial Court, having considered the oral and documentary evidence available on record, even while passing an order of acquittal, observed the evidence of PW2 who is the Revenue Inspector in paragraph No.29, wherein the evidence of PW3 who is the Head Constable has been entrusted as security to the property of CW1 and also the evidence of PW4 who is the son of the complainant has been examined before the Court wherein also the admission given by PW4 extracted the same and also considering overall evidence of PW5, PW6, PW7, PW8



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and also PW9 with regard to the admission on the part of PW9 also in paragraph No.34 and so also the evidence of PW10-Commissioner of Sira Municipality and evidence of PW11 regarding insertion of the offence under Section 395, subsequently on the request considered the same.

7. In paragraph No.37, evidence of PW12 and in paragraph No.38, the evidence of PW13 regarding admission on the part of the complainant, who is the member of Sira Municipality for 4 times and considered the material available on record, the prosecution evidence from paragraph No.39 onwards comes to the conclusion that the material witnesses i.e. Revenue Inspector and also the Commissioner have admitted in-spite of several requests made by accused Nos.1 and 2 and in-spite of notices being issued to the complainant for 100 times, the complainant has not removed his construction but stopped the construction. With regard to the damages is concerned, the same is taken note of in paragraph No.40,



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the damage estimation given by PW10 to the tune of Rs.2,58,811/-, comes to the conclusion that witnesses have deposed contrary to the amount given by PW10 i.e. Rs.40 lakhs to 46 lakhs. PW4 says his father mentioned in the complaint that he has suffered damages of Rs.46 lakhs and also discrepancies with regard to the amount is concerned and also discussed in paragraph No.41 with regard to the robbing of the amount of Rs.35,250/- which was kept in the godown and a detailed discussion was made in paragraph Nos.43 and 44, particularly the evidence of PW4 and PW5 with regard to estimation given by PW10 varies against the actual damages caused and so also PW8 who said to be the eyewitness, nothing has been elicited from his evidence to show that accused persons have entered the house of complainant and hence comes to the conclusion that benefit of doubt goes in favour of the accused and prosecution fails to prove the case against the accused and acquitted. Being aggrieved by the same, the present appeal is filed by the defacto-complainant.



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8. The learned counsel appearing for PW5 who is the son of defacto-complainant would vehemently contend that the civil dispute between the parties is not a ground to acquittal of the accused. The counsel would vehemently contend that trial Court fails to consider the material on record and mere pendency of case between the parties, there cannot be any extending of benefit of doubt. Further, the counsel would vehemently contend that trial Court has also not appreciated the fact even during the lifetime of defacto-complainant Sri.Chand Pasha, out of total extent of scheduled property measuring 95 feet x 58 feet, in the year 1998-99 itself constructed godown, warehouse, beedi factory in the land measuring to an extent of 95 feet x 52 feet and left the remaining 6 feet passage and there is no any hindrance from anybody by exercising all rights of ownership.



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9. The learned counsel vehemently contend that when the respondents have approached this Court by filing a Criminal Petition for quashing and this Court made an observation that matter requires reconsideration and requires a trial also and not quashed. The counsel also vehemently contend that trial Judge has committed an error in acquitting accused Nos.1 to 7 on the mere statement of the accused, there is a property dispute between them and the defacto-complainant, who was the sole and absolute owner of the immovable property and CW1 being a member of the Sira Council for even 4 times is not a ground. The trial Court has not properly appreciated the case of the appellant and the records made available by the appellant and the very approach of the trial Court is erroneous.

10. The learned counsel also vehemently contend that merely because some of the witnesses are interested witnesses and the same cannot be a ground to comes to a



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conclusion that prosecution case is not proved and Court has to consider overall evidence available on record whether they are interested witnesses and whether there was a damage caused to the property of the complainant and the same has not been assessed and grossly erred in not appreciating that respondent Nos.2 to 8 herein took the law into their hands illegally because of wrong measurement of their land in the assessment extract.

11. Learned counsel also contend that the trial Court committed an error in extending the benefit of doubt in favour of the accused. The prosecution also has identified three material objects as per MO.1 to MO.3. But even not considered, the evidence available on record only comes to the conclusion that prosecution case is suffering from serious discrepancies in the evidence of the prosecution witnesses and extended the benefit and hence requires interference of this court.



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12. Per contra, the learned counsel appearing for respondent Nos.1 to 8 would vehemently contend that it is not in dispute that there was a civil dispute between the parties. The learned counsel also vehemently contend that when the incident was taken place at the midnight at 02.30 a.m. the Investigating Officer has not conducted any Test Identification Parade. The learned counsel also contend that only MO1 was seized, but several allegations are made regard to causing of mischief and demolishing the building and material objects are only the 500x22 notes, 200x2 notes, 100x21 notes regarding committing theft of the amount of Rs.35,200/- is concerned and seizing of the same, no other material is collected during the course of investigation. With regard to the causing of damage to the shed and even according to the prosecution, JCB was used for demolishing, nothing placed on record.



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13. The learned counsel also vehemently contend that trial Court has rightly considered the evidence available on record. Except evidence of PW4 and PW5, the other witnesses evidence have not supported the case of prosecution and the same is properly appreciated in a proper perspective and acquitted the accused.

14. The learned HCGP for the State, in his argument brought to the notice of this Court to the nature of injuries at wound certificates Exhibit P1 and Exhibit P2 and even the trial Court has failed to consider the bleeding injuries. Hence, he prayed to allow the appeal.

15. Having heard the learned counsel appearing for PW5 who is the appellant herein and also the counsel appearing for respondent Nos.2 to 8, and the State and also the charges levelled against accused persons, no doubt based on the first complaint, the offences under Sections 143, 146, 147, 427, 447, 506, 324 were invoked,



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but subsequently Sections 395 read with 149 of IPC was invoked.

16. The main contention of the prosecution is also that incident was taken place on 03.10.2021 at about 02.30 a.m. The prosecution mainly relies upon the evidence of PW1 to PW13. PW1 is the Doctor, who has deposed before the Court that, CW2 and CW3 came to the hospital with the history of assault by the accused persons, namely Syed Mubashir and Syedin Mohasin. Accordingly, he examined them and issued wound certificates as per Exhibit P1 and Exhibit P2 stating that both the injuries are simple in nature. PW2 is the Revenue Inspector, according to him, there was a dispute and also the evidence of PW2 is extracted in paragraph No.29 in detail regarding the construction of the house and issuance of notice, illegal encroachment and putting up of construction. PW3 is the Head Constable, who was entrusted as security to the property of CW1. In his cross-



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examination, he admits regarding notice was given against CW1 not to put up the illegal constructions.

17. PW4 has categorically admitted for having put up the construction of illegal constructions made in PID No.31/131-01 and there are pending cases. PW5 is the son of CW1. His evidence is also considered so also PW6 and PW7 are the major witnesses. PW8 is an eye-witness according to the prosecution and PW9 is the witness who admits the mahazar witness who present at the time of conducting mahazar by PW12. PW11 has also categorically admits that Section 395 was invoked subsequently and so also taken note of the admission on the part of PW13 with regard to CW1 who has been selected as member of Sira Council for 4 times and also with regard to an approach made, a detailed discussion was made by the trial Court.

18. Considering overall evidence that notice was issued against CW1 on several occasions and CW1 has not bothered to say but he continued to construct and



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ultimately he stopped construction. But on perusal of the reasoning of the trial Court in paragraph Nos.39 and 40, damage assessed to the tune of Rs.2,58,811/- though charges are more against Rs.9,00,000/- of loss, but the evidence of PW10 is also taken note of regarding assessment is concerned and so also with regard to the seizure of the amount as per Exhibit P16 complaint as stated in paragraph No.41 and comes to the conclusion that the very evidence of prosecution witnesses do not inspire the confidence of the Court particularly PW4, who saw the accused stealing Rs.35,250/- from his house. But he could not say which of the accused has stolen the amount has not specifically deposed before the Court. The trial Court also taken note of the amount belongs to them as they are the timber merchant that is an admission given by the witness and also under Exhibit P2 and evidence of PW7 is contradictory to the evidence of PW8. Since the main prosecution evidence is PW8 who



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categorically deposes that no such any causing of mischief or causing any damage when he was cited as eyewitness.

19. The trial Court having considered the evidence in paragraph No.44 particularly the evidence of PW13 who clearly states regarding the complainant approaching the police for registering complaint against the accused to release the property of the accused, at that time PW3 advised the complainant that it does not come under his jurisdiction, hence provided security who is PW3 and hence comes to the conclusion that the motive to this incident is attributed in respect of civil dispute between the parties only with an intention to knock off the property and to engulf the property of the accused by hook or crook an attempt is made.

20. The trial Court considering overall material on record has rightly comes to the conclusion that the evidence of prosecution witnesses do not inspire the confidence of the Court with regard to the particular



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incident is concerned and so also in respect of invoking of the offence under Section 395 is subsequently added. PW1 has categorically admitted that there was no such allegation in the original complaint. The material available before the Court i.e. evidence of PW4, PW5, PW8 will not come to the aid of the prosecution in order to bring home the guilt of the accused as alleged. The findings given by the trial Court does not suffer from any infirmity.

21. Having taken note of material available on record, the same will not come to the aid of prosecution to consider this matter. Hence, no grounds are made out to admit the appeal considering the material on record for reconsideration.

22. In view of the discussions made above, we pass the following:

ORDER

The appeal is **dismissed**.



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It is made clear that the observations made by this Court shall not influence the trial Court while considering the civil dispute between the parties.

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

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

MKM
List No.: 1 Sl No.: 6