HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF JUNE, 2025

BEFORE

THE HON'BLE MRS JUSTICE M G UMA

CRIMINAL APPEAL NO. 942 OF 2013 (C)

C/W

CRIMINAL APPEAL NO. 845 OF 2013 (C)

IN CRL.A NO. 942/2013

BETWEEN:

BEERESHA,
S/O KALYANA SWAMY,
AGED ABOUT 23 YEARS,
R/AT 5TH CROSS, VINAYAKA
NAGARA, HOSAKOTE TOWN,
BANGALORE RURAL DISTRICT.

...APPELLANT

(BY SRI. MANJUNATH .G., ADVOCATE (ABSENT))

AND:

STATE OF KARNATAKA
BY HOSKOTE POLICE BANGALORE
RURAL (REPTD. BY STATE PUBLIC
PROSECUTOR) OFFICE OF ADVOCATE
GENERAL, HIGH COURT BUILDING
BANGALORE - 560 001

...RESPONDENT

(BY SMT. RASHMI JADHAV, ADDL. SPP)

Digitally signed by SWAPNA V
Location: High Court of Karnataka

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 05.08.2013 PASSED BY THE I ADDL. DIST. & S.J., BANGALORE RURAL DISTRICT, BANGALORE IN S.C.NO.215/2012 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 323, 324, 307 R/W 34 OF IPC AND ETC.,

IN CRL.A NO. 845/2013

BETWEEN:

1. MANJUNATHA
S/O RAJAPPA
AGED ABOUT 20 YEARS,
R/AT GANGAMMANAGUDI ROAD,
BANGALORE RURAL DISTRICT - 562 114.

2. NAVEENA @ DUMMA,
S/O KRISHNAPPA
AGED ABOUT 19 YEARS
R/AT BEHIND FOREST OFFICE,
V.V. LAYOUT, HOSKOTE TOWN,
BANGALORE RURAL DISTRICT - 562 114.

3. RANA @ KENCHA,
S/O SUBRAMANI
AGED ABOUT 20 YEARS,
R/AT KEB QUARTERS,
HOSKOTE TOWN - 562 114.

…APPELLANTS

(BY SRI. MANJUNATH .G., ADVOCATE (ABSENT))

AND:

STATE OF KARNATAKA
BY HOSKOTE POLICE
BANGALORE RURAL - 562 114.
(REPRESENTED BY LEARNED
STATE PUBLIC PROSECUTOR)

…RESPONDENT

(BY SMT. RASHMI JADHAV, ADDL. SPP)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 05.08.2013 PASSED BY THE I ADDL. DIST. & THE S.J., BANGALORE RURAL DISTRICT, BANGALORE IN S.C.NO.215/2012 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 323, 324, 307 R/W 34 OF IPC AND ETC.

THESE CRIMINAL APPEALS, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE M G UMA

COMMON ORAL JUDGMENT

Appellant in Criminal Appeal.No.942/2013 being accused No.1, and appellants in Criminal Appeal No.845/2013 being accused Nos. 2 to 4 are impugning the Judgment of Conviction and Order of Sentence dated 05.08.2013 passed in SC No.215/2012 on the file of the learned First Additional District and Sessions Judge, Bangalore Rural District, (hereinafter referred to as Trial Court), convicting them for the offences punishable under Sections 323, 324, 307 R/w Section 34 of IPC and sentencing them to undergo rigorous imprisonment for 6 months for the offence punishable under Section 323 of the Indian Penal Code (for short 'the IPC'), to undergo imprisonment for a period of 1 year for the offence punishable under Section 324 of IPC and to undergo rigorous imprisonment for a period of 8 years and to pay fine of Rs.25,000/- for the offence punishable under Section 307 of IPC, with the default sentences.

2. Brief facts of the prosecution case are that, PW1 being the injured was admitted to the hospital and his statement was recorded by the police. On the basis of same, the FIR as per Ex.P12 was registered against accused Nos.1 and others by Hosakote Police for the offences punishable under Sections 143, 147, 148, 149, 307, 324 of IPC. After investigation, the charge sheet came to be filed against accused Nos.1 to 4 for the offences punishable under Sections 323, 324, 307 R/w Section 34 of IPC. The Trial Court took cognizance of the offences and summoned the accused. They have appeared before the Trial Court pleaded not guilty for the charges leveled against them and they claim to be tried. Prosecution in order to prove its contention examined PWs.1 to 6, got marked Exs.P1 to 15 and identified MOs.1 to 9. The accused have denied all the incriminating materials available on record in their statement recorded under Section 313 of Cr.P.C. But they have not led any evidence in support of their defence.

3. The Trial court after taking into consideration all these materials on record, came to the conclusion that the prosecution is successful in proving the guilt of the accused beyond the reasonable doubt and accordingly, passed the

impugned judgment of conviction and order of sentence as stated above. Being aggrieved by the same, accused Nos.1 to 4 have preferred these appeals.

4. Learned counsel for the appellants is absent. No representation, even when the matter was posted finally as a last chance. Hence, his arguments is taken as nil. Heard learned Additional SPP for respondent-State. Perused the materials including the Trial Court records.

5. In view of the contentions urged by learned Additional SPP and on going through the material on record, in the light of the grounds made out in the memorandum of appeal, the point that would arise for my consideration is:

> *"Whether the appellants-accused Nos.1 to 4 have made out a case to interfere with the impugned judgment of conviction and order of sentence passed by the Trial Court?*

My answer to the above point is in the 'negative' and pass the following:

REASONS

6. It is the contention of the prosecution that accused Nos.1 to 4 and others were quarreling with one another on 15.02.2012 in the mid night. PW1 being the Auto-rickshaw driver came to the spot, advised them and slapped accused No.2 asking them to go home and not to quarrel in the mid-night. It is the further contention of the prosecution that on 16.02.2012, at about 10.00 pm, accused No.4 engaged the Auto-rickshaw of PW1 to go to Vinayak Nagar. When PW1 carried accused No.4 in the Auto-rickshaw to Vinayakanagar, accused Nos.1 to 3 came in another Auto-rickshaw. They picked up quarrel with PW1 and accused No.1 assaulted him with a knife, accused No.2 with rod, the other accused have also assaulted him. As a result of which, he sustained injuries and he was taken to the hospital in the midnight.

7. His statement was recorded by the police on the next day at 8.00 am as per Ex.P1 and the FIR came to be registered. PW1 has stated that he can identify the accused, who have assaulted him, and the weapons used for the commission of the offence. After completing the investigation, the charge sheet came to be filed.

8. The prosecution examined PW1-the injured eye-witness, who identified accused Nos.1 to 4 and also Mos.4 and 5 and narrated the incident that had occurred on 15.02.2012 and on 16.02.2012. He specifically deposed regarding the overt-act committed by the accused and identified all of them. During cross-examination, it is suggested by the learned counsel for the accused that PW1 had fallen down from the Auto-rickshaw, while driving the same under the influence of alcohol. The said suggestion was flatly denied by the witness.

9. PW2 is the eye-witness to the incident, who has also fully supported the case of the prosecution. He also identified the accused. Witness further states that that he is the witness to the spot panchanama Ex.P2 and recovery panchanama Ex.P3, under which, Mo4-knife was recovered at the instance of accused No.1 and Ex.P4 under which, MO-5 iron rod, at the instance of accused No.3 was recovered. He further states that Ex.P5 is the seizure mahazar, under which, Auto-rickshaw was seized at the instance of accused No.3. Even though this witness was subjected to cross-examination, nothing has been elicited from him to disbelieve his version. Even though an attempt was made to contend that there was

enmity between the accused and PW2, such suggestions were denied by the witness.

10. PW3 is the mahazar witness to Ex.P6, who stated that he had seen PW1 with injuries on his hand, stomach and other parts of the body and shifted to the hospital. Later, he carried the clothes worn by the victim to the police station, which was seized in his presence under Ex.P6. He identified those clothes as Mos.1 to 3.

11. PW4 is the Doctor, who examined injured - PW1 and issued Ex.P8 - wound certificate. This witness also supported the case of prosecution. According to Ex.P8, PW1 had sustained in all four injuries including stab injuries, out of which, injury Nos.1, 2 and 4 were simple in nature and injury No.3 was grievous. Witness also stated that all these injuries could be caused with the knife MO-4. During cross-examination, nothing has been elicited from the witness to disbelieve his version. It is suggested to the witness that these injuries mentioned in Ex.P8 could be caused if a person falls on a sharp-edged weapon. But the same was denied by the witness.

12. PW5 is the Scientific Officer, who examined the clothes Mos.1 to 3, a knife and the rod marked as Mos.4 and 5 and issued the report as per Ex.P10. It is stated that all Mos.1 to 5 were found stained with human blood - Group-A. It is suggested to the witness during cross-examination that a false certificate was issued by him, which was denied. PW6 is the Investigating Officer, who spoke about the investigation undertaken by him. He also speaks about recovery of the weapons at the instance of the accused under the mahazar. This witness is also subjected to cross-examination. But there is nothing to discard his evidence.

13. From the materials including oral and documentary evidence referred to above, the prosecution is successful in proving the guilt of accused beyond reasonable doubt. In the statement of the accused recorded under Section 313 of CrPC, except a bare denial, the accused have not offered any explanation for the incriminating materials. They have also not stepped into the witness box nor examined any witnesses. Under these circumstances, I have to conclude that the prosecution is successful in proving the guilt of the accused

beyond reasonable doubt and the accused are liable for conviction.

14. I have gone through the impugned judgment of conviction and order of sentence passed by the Trial Court. It has taken into consideration the oral and documentary evidence placed before it in a proper perspective and proceeded to pass the impugned order. I do not find any reason to interfere with the same. Accordingly, I answer the above point in the ***negative*** and proceed to pass the following.

ORDER

Crl.A No.942/2013 and Crl.A No.845/2013 are ***dismissed***.

Registry is directed to send back Trial Court records along with copy of this judgment, for information and to secure the presence of the accused to issue conviction warrant, if the same is not yet issued.

Sd/-
(M G UMA)
JUDGE

BH
List No.: 1 Sl No.: 29