HC-KAR

NC: 2026:KHC:59564-DB
CRL.A No. 495 of 2019

CNR: KAHC010073532019

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF OCTOBER, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE B.PRAMOD

CRIMINAL APPEAL NO. 495 OF 2019 (C)

BETWEEN:

CHERIYANDA RAVINDRA
@ SUBRAMANI
S/O. CHERIYANDA NANAIAH,
AGED ABOUT 55 YEARS
R/AT MALLANGERE KANOOR VILLAGE,
VIRAJPET TALUK,
KODAGU DISTRICT 571 217

...APPELLANT

(BY SRI. M.T. NANAIAH, SENIOR COUNSEL, A/W;
SRI. PRABHUGOUD B TUMBIGI AND;
SRI. BALASUBRAMANYAM, B.N,ADVOCATE)

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

AND:

THE STATE OF KARNATAKA
BY DEPUTY SUPERINTENDENT OF POLICE,
VIRAJPET SUB DIVISION,
VIRAJPET,
REP BY SPECIAL PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA.
HIGH COURT BUIDLING,
BANGLAORE 560001

...RESPONDENT

(BY SMT.SOWMYA R., HCGP FOR R1;
SMT. YAMINI MUNIRAJ, ADVOCATE FOR COMPLAINANT)

CNR: KAHC010073532019

THIS CRL.A. IS FILED U/S.374(2) CR.P.C TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 07.02.2019 AND SENTENCE DATED 06.03.2019 IN S.C.NO.17/2014 ON THE FILE OF II ADDITIONAL DISTRICT AND SESSIONS JUDGE, KODAGU-MADIKERI SITTING AT VIRAJPET IN FINDING THE APPELLANT GUILTY FOR THE OFFENCES P/U/S 307 OF IPC AND SEC.3(2)(v) OF SC/ST (POA) ACT AND ETC.,

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

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE B.PRAMOD

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

This appeal is preferred against the judgment of conviction and order on sentence passed by the Court of Second Additional District and Sessions Judge, Kodagu-Madikeri, sitting at Virajapet, wherein the appellant-accused was convicted and sentenced for the offences punishable under Section 307 of IPC and Section 3(2)(v)

of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "SC/ST (POA) Act") and Section 30 of the Indian Arms Act, 1959 (for short, "Arms Act"). He has been acquitted of the offence punishable under Section 326 of IPC.

2. We have heard the learned Senior Counsel Sri. M T Nanaiah appearing for the appellant-accused, Smt. Sowmya, learned High Court Government Pleader appearing for the State and perused the evidence and material on record.

3. The appellant-accused was charged on four counts, firstly that on 17.01.2014 at about 11.00 a.m., when the victim (PW.1) was plucking coffee seeds in Sy.No.69/82P of Mallanagere of Kanoor Village, he fired at her from a SBBL gun and caused grievous injuries to her; secondly, that he fired the gunshot with an intention to commit her murder; thirdly, he used the SBBL gun to

commit an offence and thereby contravened the terms and conditions of the gun licence and; lastly that he committed an offence under the Indian penal code, punishable with more than 10 years, knowing fully well that the victim belongs to Scheduled Tribe.

4. The charges were framed against the appellant-accused for the offences punishable under Sections 326, 307 of IPC, Section 30 of the Arms Act and Section 3(2)(v) of the SC/ST (POA) Act.

5. Appreciating the oral and documentary evidence on record, the trial Court held that the prosecution has established that PW.1-injured sustained gunshot injuries and there is nothing to disbelieve the testimony of the prosecution witnesses which establishes that the accused has committed the offences p/u/s 307 of IPC, Section 3(2)(v) of SC/ST (POA) Act and Section 30 of Arms Act.

6. The defence of the accused was that, admittedly, there was a civil dispute between the parties and on the date of incident, PW.2-M T Appaiah, the husband of injured PW.1-M A Anuja, fired from a gun at the accused however, PW.1 sustained the gunshot injuries and therefore, the injuries sustained by PW.1 was not on account of the gunshots fired by the appellant-accused.

7. Learned Senior Counsel Sri. M T Nanaiah appearing for the appellant-accused contended that even before the registration of case against the accused, he had lodged a complaint with the police and a case was registered in Crime No.3/2014 against PW.2-Marathi Appaiah and PW.8-Vasantha. He contended that, the FIR at Ex.D5 and the complaint averments clearly establishes that on the very same day i.e., on 17.01.2014 at about 10.15 a.m., both PWs.2 and 8 had trespassed into the disputed land with an intention to pluck coffee seeds and PW.2- M T Appaiah fired at the accused and his wife PW.13-Sajita and also committed theft of coffee seeds

valued at Rs.28,000/-. He contended that the prosecution has suppressed the said incident and without proper investigation, the police have filed a 'B' Report whereas, they registered a false case against the accused alleging that he fired gunshots at PW.1 and caused injuries to her.

8. The learned Senior Counsel further contended that, according to PW.6, the injuries sustained by PW.1 are superficial and simple in nature, contrary to the Wound Certificate issued by PW.20. Further, the prosecution has failed to establish that the injured, i.e., PW.1 is a member of Scheduled Tribe. Hence, neither the provisions of SC/ST (POA) Act are attracted nor the prosecution has established that the accused has committed an offence under Sections 307 IPC or 326 of IPC.

9. Per contra, the learned HCGP contended that PW.1 is the injured and she has supported the prosecution case. Her evidence is further coroborated by the evidence of PWs.2 to 8 and the medical evidence. She contended

that the SBBL gun used in the commission of the offence was seized and as per ballistic expert's report, the said SBBL gun was used and three pellets were also removed from the body of PW.1. She further contended that from the evidence of PWs.19 and 22 and the documents at Ex.P16 and Ex.P25, it is evident that PW.1 is a member of Scheduled Tribe and therefore, the trial Court has rightly convicted the accused for the offences under Section 307 of IPC, Section 30 of the Arms Act and Section 3(2)(v) of the SC/ST (POA) Act.

10. The complaint at Ex.P1 is lodged by the injured-PW.1. A perusal of the complaint averments shows that the lands of the accused and the complainant are situated adjacent to each other and there was a long-standing dispute between them in respect of the coffee estate situated in Sy.Nos.69/82 and 69/11. On 17.01.2014, at about 11.00 a.m., when the complainant and others were plucking coffee seeds, the accused trespassed into the land and questioned them as to why they were plucking

the coffee seeds in the disputed land and then fired at the complainant. Consequent to which, the complainant sustained injuries to her right hand, right thigh, back and left shoulder. She was shifted to Gonikoppa Government Hospital for treatment, wherein her statement was recorded by the police, based on which, a case was registered against the accused.

11. The complainant/injured examined as PW.1 has supported the case of the prosecution. She has corroborated the complaint averments. In the cross-examination, it was suggested to her that on the day of alleged incident, they were plucking coffee forcibly and her husband was watching the estate by holding a gun belonging to CW.7-Vasantha(PW.8). When the accused, his wife and his father came and questioned them as to why they are plucking the crop, her husband fired a gunshot at the accused and by mistake the said gunshot hit her. The said suggestion was denied by PW.1. The said suggestion was also made to other witnesses, but, all of

them have denied that PW.1 sustained the gunshot injuries when her husband fired at the accused.

12. The defense has got marked the complaint- Ex.D3 and the FIR- Ex.D5, registered against PWs.2 and 8. It is alleged therein that on 17.01.2014 at about 10.15 a.m., when the accused and his wife were proceeding to the estate, they saw PWs.2 and 8 trespassing into the disputed land and on seeing the accused and his wife going towards the land, they fired at them, but they escaped. It is also alleged that they had committed theft of about 10 to 15 bags of coffee valued at Rs.28,000/-.

13. It is not in dispute that after investigation, a B-report was filed in the said case registered against PW.2 and PW.8 in Crime No.3/2014 of Ponnampet Police Station. It is not the case of the defense that in the said incident, the accused had sustained injury due to firing by PW.2.

14. The learned Senior Counsel, drawing the attention of the Court to the evidence of PW.18, contended that the accused had gone to the police station to lodge the complaint against PWs.2 and 8 and he was in the police station by 03.00 p.m. on 17.01.2014. He contended that even though the accused was in the police station, he was not arrested but shown to have been arrested on the following day.

15. PW.2 in the cross-examination has denied the suggestion that the accused had come to the police station prior to 17.01.2014, but he was not arrested because the case in Crime No.3/2014 was not yet registered by that time. A perusal of the FIR registered against PWs.2 and 8 and the complaint lodged by the accused shows that the said FIR was registered at about 8.00 pm i.e., subsequent to registration of the FIR against the accused in Crime No.2/2014. The Investigating Officer has failed to explain as to why the accused was not arrested when already a case was registered against him in Crime No.2/2014 by

03.00 p.m. on 17.01.2014. However, that itself is not a ground to disbelieve the entire case of the prosecution.

16. A SBBL gun-MO.5 belonging to the accused was seized after his arrest. The said gun and the pellets removed from the body of PW1 were sent for examination. The Ballistic expert is examined as PW21. He has deposed that on 24.01.2014, he received 8 sealed articles, which were intact and tallied with the sample seal sent by the I.O. and the Medical Officer. The said articles are as follows:

Art.No.1	contains one 12 bore SBBL Gun bearing No.16063 of Sujatha Arms Manufacturing Co.
Art.No.2	contains one 12 bore fired cartridge case
Art.No.3	contains two 12 bore cartridges
Art.No.4	contains one old white coloured tarpol
Art.No.5	contains 7 deformed lead pellets
Art.No.6	contains one cotton nighty
Art.No.7	contains one petticoat

Art.No.8 contains 3 deformed lead pellets.

17. PW21 has stated that the cartridge case in Article No.2 was compared with that of tested cartridges T.1 to T.3 under the comparison microscope. The clothes and individual characteristics of firing pin on the cartridge case on Article No.2 tallied with the tested cartridges. Hence, opined that the cartridge case in Article No.2 was fired through SBBL gun in Article No.1. He has further stated that there are 6 gunshot holes present on front side of the nighty and same are marked at 6H.1 to H.6. 4 holes present in petty coat (Article No.7), marked at H.1 to H.4. The edges of the holes are swabbed and subjected to chemical test for the presence of blood with a positive result. He opined that these holes are caused due to impact of lead pellets. Further stated that the presence of gunshot residues were detected on the pellets in Article No.5 and the pellets in Article Nos.5 and 8 are the components of 12 bore cartridges which could have been

fired through SBBL gun in Article No.1. The effective range of Article No.1 gun was 40 yards. His opinion is marked as Ex.P22 and method of examination/reasoning for giving his opinion is marked as Ex.P23. In the cross examination, the defence has elicited that PW21 had also issued Ex.D10 opining that Article No.1 in that crime was bearing discharge and the holes caused in nighty and petticoat could be caused by any 12 bore gun loaded with the same size pellets.

18. It is the contention of the learned counsel for the appellant that Ex.D1 is the opinion furnished by PW21 with regard to the gun which was seized at the instance of PW2. The said gun belonging to PW8 was also found to be used. Hence, it was PW2 who fired at the accused, but PW1 sustained injuries, accidentally.

19. All the witnesses have categorically denied the suggestion that PW1 sustained gun shot injuries due to the shots fired by PW2. On the other hand, PW1's evidence supported by the evidence of PW2 to PW8 and cumulative

effect of their evidence establish that the accused fired from MO5, due to which PW1 sustained injuries.

20. PW1 in her evidence has stated that the accused pointed the gun at all of them and fired bullets which hit on her right hand, right thigh and left shoulder. Even PW2 has stated that the accused fired bullets towards them and the bullets hit on his wife's right hand, right thigh, left shoulder and back etc. Admittedly, pellets were removed from the body of PW1 and not the bullets. The evidence of the ballistic expert-PW21 would also confirm that the lead pellets were removed from the body of PW1.

21. PW26-Doctor attached to K.R.Hospital has stated that 03 pellets of various sizes of 2-3 mm were removed. As per Ex.P22, issued by PW21, the deformed lead pellets in Article No.8 weighed about 0.3259 grams and weight of the single deformed pellet was 0.108 grams. Neither PW20, the doctor who administered first aid to

PW1 at Gonikoppa Government Hospital nor PW26, the doctor who treated PW1 at K.R. Hospital have stated that the injuries sustained by PW1 was life threatening. Even though PW20, who issued the wound certificate-Ex.P21 opined that the injuries are grievous in nature, he has stated that 03 superficial pellets were removed. In the cross examination, he has admitted that he did not examine the depth of injuries. He gave first aid treatment and referred the injured to higher hospital. According to him, any gunshot injury will be grievous in nature, but admitted that in case of grievous injuries, there will be fracture, dislocation or skin deep injuries. He has stated that, superficial injury will not be grievous injury, according to medical term. Further stated that, just because the injuries mentioned in Ex.P21 were gunshot injuries, he opined that those are grievous in nature.

22. From the above evidence of PW20, it is evident that only because the injuries were caused by gun shot, he opined in Ex.P21 that those injuries were grievous in

nature. He did not examine the depth of injury. He administered only first aid and referred the injured to the higher hospital.

23. PW26 is the doctor who examined the injured-PW1 and removed the pellets from her body. He has stated that the pellets of various sizes of 2-3 mm were removed. He admitted in the cross examination that the injuries were superficial injuries and all the injuries were simple in nature. As already stated, neither PW20 nor PW26 have stated that the injuries sustained by PW1 were life threatening injuries. It is not established that the pellets used to fire were sufficient to cause the death of a person. The prosecution has also not established the exact distance from which the accused fired the gunshot. As we find from the evidence of PW1, she saw the accused from a distance of about 60 to 65 feet away, but at another stretch she has stated that the accused fired the gunshot from a height of about 150 feet. As per Ex.P22, the opinion of the ballistic expert, the effective range of SBBL

gun in Article No.1 is about 40 yards (120 feet). Hence, it cannot be held that the accused had fired at PW1 from his SBBL gun, with an intention to commit murder. Admittedly, pellets were used and there is no evidence to show that they were sufficient to cause the death of a person. It is also not established that PW1 had sustained grievous injury. However, from the evidence of PW26, it can be safely held that PW1 sustained simple injuries caused by pellets fired at her by the accused from a SBBL gun and therefore, the accused is liable to be convicted for an offence punishable under Section 324 of IPC.

24. In view of our finding that the accused has committed an offence punishable under Section 324 of IPC and not under Section 307 of IPC, applicability of Section 3(2)(v) of the SC/ST (Prevention of Atrocities) Act, will not arise.

25. The finding recorded by the trial Court to convict the accused for the offence punishable under Section 30 of the Arms Act, calls for no interference.

26. It is submitted that the accused was arrested on 18.01.2014 and before he was granted bail, he was under incarceration for a period of 219 days during pre-trial and post-conviction. He has no criminal antecedents. No untoward incident has taken place, subsequent to the incident in question. Hence, in the facts and circumstances of the case, the period of imprisonment undergone by the accused can be held to be sufficient sentence, with imposition of appropriate fine, which would meet the ends of justice.

27. In view of the above discussions and for the foregoing reasons, we proceed to pass the following:

ORDER

i. Criminal Appeal is **Partly allowed.**

ii. The Judgment dated 07.02.2019 and the Order on Sentence dated 06.03.2019 passed by the Court of II Additional District and Sessions Judge, Kodagu-Madikeri, Sitting at Virajpet in Special Case No.17/2014, insofar as convicting the accused/appellant for the offence punishable under Section 307 of IPC and Section 3(2)(v) of SC/ST (POA) Act, are **set aside.**

iii. Accused is convicted for the offence punishable under Section 324 of IPC and sentenced to imprisonment for the period already undergone by him.

iv. The conviction and sentence passed against the accused for the offence under Section 30 of the Arms Act is **confirmed.** The sentence shall run concurrently.

v. Accused shall pay a fine of Rs.3,00,000/- (Rupees three lakhs only). In default of payment of fine, he shall undergo imprisonment for a period of 6 months.

vi. The fine amount shall be deposited before the trial Court within a period of 3 months and on deposit, the

entire amount shall be released in favour of PW1-injured, as compensation, on due identification.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(B.PRAMOD)
JUDGE

BSV/TL
List No.: 1 Sl No.: 9