HC-KAR
NC: 2026:KHC:64931
CRL.A No. 258 of 2014
CNR: KAHC010184802014

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 258 OF 2014 (C)

BETWEEN:

1. KUMARA
   S/O SHIVANAIKA
   AGED ABOUT 37 YEARS

2. BASAVARAJU
   S/O SHIVANAIKA
   AGED ABOUT 25 YEARS

   APPELLANTS NO.1 TO 2 ARE
   R/AT KOODLAPURA VILLAGE
   NANJANAGUD TALUK
   MYSORE DISTRICT – 571 301.

...APPELLANTS

(BY SRI P. NATARAJU, ADVOCATE)

AND:

Digitally signed by G SHREERAKSHA
Location: HIGH COURT OF KARNATAKA

STATE OF KARNATAKA
BY KOWLANDE POLICE STATION
MYSORE
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BANGALORE – 560 001.

...RESPONDENT

(BY SRI K. NAGESHWARAPPA, HCGP)

THIS CRL.A. IS FILED UNDER SECTION 374(2) OF THE CRIMINAL PROCEDURE CODE PRAYING THAT TO SET ASIDE THE JUDGMENT AND ORDER PASSED BY I ADDITIONAL SESSIONS JUDGE, MYSORE IN S.C.NO.130/2012 DATED

07.03.2014 AND ACQUIT THE APPELLANTS BY ALLOWING THIS APPEAL IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The appellants have preferred this appeal against the judgment of conviction and order of sentence passed by the I Additional Sessions Judge, Mysuru in S.C.No.130/2012 dated 07.03.2014.

2. Parties are referred to same rank what they had before the trial Court.

3. The brief facts leading to this appeal are that the Sub-Inspector of Police, Kowlande Police Station laid a charge sheet against accused Nos.1 and 2 for the offences punishable under Sections 114, 506 and 307 read with Section 34 of IPC. It is alleged by the prosecution that on 20.11.2011 at about 9.00 p.m. accused No.1 came to the house of PW-2 Mahadevanaika picked up a quarrel with him and asked him to send his wife and children. When PW-2 refused to send her saying that until

final decision of the criminal case lodged by her, he would not send her. The accused No.2 became annoyed and threatened to kill him one or the other day. Further, it is alleged that on 21.11.2011 at about 2.30 p.m. when PW-2 was sleeping in the veranda of his house, accused Nos.1 and 2 with a common intention to kill him came there and made galata, accused No.1 at the instigation of accused No.2 assaulted PW-2 with machete on his head causing grievous injury. Thereby, attempted to commit murder. Thus, the accused has committed alleged offences.

4. After filing the charge sheet, the case was registered in C.C.No.16/2012 and case was committed to the Court of Sessions Judge in S.C.No.130/2012. The accused appeared before the Court and were enlarged on bail. On hearing the parties, the trial Court has framed the charges for the alleged commission of offences. Same was read out and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, the prosecution has examined 12 witnesses as PWs-1 to 12, 19 documents were marked as Exs.P.1 to 19. 7 Material Objects were marked as M.O.Nos.1 to 7. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C. is recorded. The accused have totally denied the evidence of prosecution witnesses. However, they did not choose to lead any defence evidence on their behalf.

6. Having heard the arguments of both sides, the trial Court has convicted the accused Nos.1 and 2 for the offences punishable under Sections 307, 114 read with Section 34 of the IPC and Section 506 of IPC and passed a sentence to undergo Simple Imprisonment for a period of six months and pay a fine of Rs.5,000/- for the offence punishable under Section 506 of IPC. Further, accused Nos.1 and 2 are sentenced to undergo Simple Imprisonment for a period of three years and to pay a fine of Rs.30,000/- each for the offences punishable under Sections 307 and 114 of IPC read with Section 34 of IPC. Being aggrieved by this judgment of conviction and order of sentence, the appellants have preferred this appeal.

7. Learned counsel appearing on behalf of the appellants submits that at about one year back, the PW-2 injured has passed away. Though the appellants have urged several grounds in the memorandum of appeal, the appellants are not going to press those grounds. Further, he would submit that the accused No.1 met with an accident and he has suffered accidental injuries resulting in amputation of his leg above the knee level and it is very difficult for him to walk, squat or do any work. Similarly, accused No.2 is an young bachelor and his role of commission of offences is only an abetment and both the accused have already undergone judicial custody for a period of four and a half months i.e., from 16.12.2011 till 08.05.2012. Same is also observed in the judgment. On all these grounds, it is sought for modification of the sentence and reduce the same to four and half months instead of three years.

8. As against this, Sri.K.Nageshwarappa, learned HCGP submits that the trial Court has properly appreciated the evidence on record in accordance with law and absolutely there

are no grounds to interfere with the sentence imposed by the trial Court and sought for dismissal of the appeal.

9. Having heard the arguments of both sides and on perusal of material placed before this Court, the following points would arise for consideration:-

1. Whether the trial Court is justified in convicting the accused Nos.1 and 2 for the commission of offences under Sections 307, 114 and 506 read with Section 34 of IPC?
2. Whether appellant Nos.1 and 2 have made out grounds for modification of sentence?
3. What order?

10. My answer to the above points are as under:-

Point No.1 :- In the Affirmative.

Point No.2 :- Partly in the Affirmative.

Point No.3 :- As per final order.

11. I have carefully examined the materials placed before this Court. Though the appellants have not pressed as to the judgment of conviction passed by the trial Court, it is the duty of the Court to see whether the trial Court is justified in convicting the accused or not. Accordingly, I have examined

the evidence of PWs-1 to 12 and documents Exs.P.1 to 19. PW-2, the injured witness has clearly deposed as to the alleged act of accused Nos.1 and 2. The PW-9 has deposed as to the injuries caused to the injured. On careful examination of the entire evidence on record, the trial Court has rightly come to the conclusion that accused Nos.1 and 2 are held guilty for the offences punishable under Sections 307, 114 and 506 read with Section 34 of the IPC. Hence, I do not find any legal or factual error in the impugned judgment of conviction passed against accused Nos.1 and 2. Hence, I answer point No.1 in the Affirmative.

12. With regard to the modification of sentence is concerned, trial Court has passed sentence as under:-

> *"Accused No.1 is sentenced undergo Simple Imprisonment for a period of six months and to pay a fine of Rs.5,000/- for the offence punishable under Section 506 of I.P.C. In default of payment of fine, he shall further undergo Simple Imprisonment for a period of two months.*
>
> *Accused No.1 and 2 are sentenced to undergo Simple Imprisonment for a period of three years and to pay a fine of Rs.30,000/- each for the offences punishable under Sections 307 and 114 r/w Section 34 of I.P.C. In*

case of default of payment of fine, they shall further undergo Simple Imprisonment for a period of one year.

Both sentences of accused No.1 shall run concurrently.

Out of the fine amount, Rs.60,000/- shall be paid to P.W.2 by way of compensation for the injuries suffered by him and Rs.5,000/- shall be adjusted towards fine.

Accused-1 and 2 are entitled for benefit of set off for the period for which they have already undergone as under-trial prisoners during the course of trial, as provided under Section 428 of Cr.P.C.

M.O.1-Machete shall be confiscated to the State, while M.Os.2 to 7 being worthless, shall be destroyed after appeal period is over and if appeal is preferred, after disposal of the appeal.

Issue conviction warrant.

Furnish free copy of the Judgment and Order of Sentence to the accused forthwith."

14. The trial Court has considered the mitigating circumstances i.e., loss of one limb of the accused No.1 during trial. Further, it is observed by the trial Court that accused No.1 has suffered accidental injuries resulting in amputation of leg above knee level and it is very difficult for him to walk,

squat or to do any work. It is also observed by the trial Court that the accused No.2 is an young bachelor and his role in commission of offence is only abetment. He also deserves some leniency. It is also observed that PW-2 Mahadeva Naika has suffered grievous injuries on his head resulting in fractures of his both temporal bones. It is submitted that PW-2 is no more. However, considering the nature and gravity of offences, amputation of leg of accused No.1, and the detention already undergone by accused for a period of four months 22 days, I proceed to pass the following:-

ORDER

1. The appeal is ***partly allowed***.
2. The judgment of conviction passed by the I Additional Sessions Judge, Mysuru in S.C.No.130/2012 dated 07.03.2014 is confirmed.
3. The order of sentence passed by the I Additional Sessions Judge, Mysuru in S.C.No.130/2012 dated 07.03.2014 is modified as under :-

(a) The appellant No.1 is sentenced to undergo Simple Imprisonment for a period of four months and

to pay fine of Rs.5,000/- for the offence punishable under Section 506 of IPC. In default of payment of fine, he shall undergo Simple Imprisonment for a period of one month.

(b) The appellant Nos.1 and 2/accused Nos.1 and 2 are sentenced to undergo Simple Imprisonment for a period of four months 22 days and to pay fine of Rs.50,000/- each (Rupees Fifty Thousand only) for offences punishable under Sections 307 and 114 read with Section 34 of the IPC. In default of payment of fine, they shall undergo Simple Imprisonment for a period of two months.

(c) Both sentences of accused Nos.1 and 2 shall run concurrently.

(d) The appellants are entitled for benefit of set off for a period of which they have already undergone as prisoners during the course of trial as contemplated under Section 428 of Cr.P.C.

4. The order sheet pertaining to S.C.No.130/2012 reveals that the accused have deposited an amount of Rs.65,000/- vide receipt No.0823961 dated 15.03.2014. Hence, appellant Nos.1 and 2 are directed to deposit remaining amount of Rs.20,000/- each within a period of four weeks from this day. After depositing this amount, the trial Court is directed to pay an amount of Rs.1,00,000/- (Rupees One Lakh only) which includes the deposited amount of Rs.60,000/-, to the LR's of PW.2 i.e., PW.1 and other legal heirs, if any.

5. The trial Court is directed to ascertain as to the legal representatives of PW-2 and disburse the amount in accordance with law.

6. Registry is directed to send the copy of the judgment along with trial Court records to the trial Court.

Sd/-
(G BASAVARAJA)
JUDGE

MH/-
List No.: 1 Sl No.: 23