HC-KAR

NC: 2026:KHC:62196
CRL.A No. 80 of 2016

CNR: KAHC010190922016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 80 OF 2016 (C)

BETWEEN:

1. HANUMANTHARAYAPPA
   S/O LATE NARAYANAPPA
   AGED ABOUT 35 YEARS

2. SHIVA KUMAR
   S/O NARAYANAPPA
   AGED ABOUT 32 YEARS

3. NANJEGOWDA
   S/O NARAYANAPPA
   AGED ABOUT 28 YEARS

   ALL ARE RESIDING AT
   VELAPI GRAMA
   GOWRIBIDANUR TALUK
   CHIKKABALLAPURA-561 210

...APPELLANTS

(BY SRI. GIREESHA J.T., ADVOCATE)

AND:

1. STATE OF KARNATAKA
   BY GOWRIBIDANUR RURAL P.S.
   CHIKKABALLAPURA-561 210
   REPRESENTED BY SPP
   HIGH COURT COMPLEX
   BANGALORE-560 001

...RESPONDENT

(BY SRI. K.NAGESHWARAPPA, HCGP)

Digitally signed by GEETHA P G
Location: HIGH COURT OF KARNATAKA

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THIS CRL.A. IS FILED U/S 374(2) CR.P.C. PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION IN S.C.NO.162/2011 DATED 05.01.2016 ON THE FILE OF PRINCIPAL DISTRICT AND SESSIONS JUDGE AT CHIKKABALLAPURA AND THE APPELLANTS MAY BE ACQUITTED.

THIS APPEAL, COMING ON FOR ORDERS, 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 on sentence passed by the Principal District and Sessions Judge, Chikkaballapura in SC.No.162/2011 dated 05.01.2016.

2. The parties herein are referred to the same rank what they had before the trial Court.

3. The brief facts leading to this appeal are that, the Sub-Inspector of Police, Rural Police Station, Gowribidanur submitted a charge sheet against the accused for the offences punishable under Sections 323, 324, 326, 307 read with 34 of IPC. It is alleged by the

prosecution that on 19.04.2011 at 07:00 a.m. when CW2 was proceeding in front of the house of the accused, accused picked up quarrel with CW.2 for the reason that he was teasing the wife of accused no.1 and with common object, accused have assaulted CW2 with club and iron rod on his head and his wife, causing grievous hurt and committed the alleged offences.

4. After filing the charge sheet, the case was registered in C.C.No.140/2011 and the same was committed to the Court of Sessions in S.C.No.162/2011. Accused appeared before the Court and enlarged on bail. The trial Court has framed the charges against the accused for the alleged offences. Having understood the same, accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of accused, prosecution has examined in all nine witnesses as PWs.1 to 9. 10 documents were marked as Exs.P1 to 10 and 3 material objects were marked as M.Os.1 to 3. On closure of the

prosecution side evidence, statement under Section 313 Cr.P.C. was recorded. Accused have totally denied the evidence of prosecution witnesses. However, they did not choose to lead any defence evidence on their behalf. Having heard the arguments on both sides, the trial Court acquitted accused nos.1 to 3 for the offence under Sections 307 read with 34 of IPC. However, the trial Court has convicted accused nos.1 to 3 for the offence under Sections 323, 326 read with 34 of IPC and sentenced them to undergo rigorous imprisonment for a period of four months and fine of Rs.1,000/- for the offence under Section 323 IPC. Further, the accused were sentenced to undergo rigorous imprisonment for a period of three years with fine of Rs.2,000/- for the offence under Section 326 read with 34 IPC.

6. Being aggrieved by this judgment of conviction and order on sentence, the appellants have preferred this appeal.

7. Learned counsel for the appellants would submit that the trial Court grossly erred in convicting the appellants for the offence under Sections 323, 326 of IPC is manifestly erroneous and opposed to the facts and circumstances of the case. The victims i.e., PWs1 and 2 did not support the case of the prosecution, they have been treated as hostile. In spite of there being no materials, the trial Court has convicted the accused. The trial Court has not properly appreciated the evidence on record in accordance with law and accordingly sought for allowing this appeal.

8. As against this, learned HCGP Sri.K.Nageshwarappa would submit that the trial Court has properly appreciated the evidence on record in accordance with law and sought for dismissal of the appeal.

9. Having heard the arguments on both sides and perusal of materials, following points would arise for my consideration:

(i) Whether the appellants have made out any ground to interfere with the impugned judgment of conviction and order on sentence?

(i) What order?

10. My findings to the above points are as under:

(i) Point No.1 : Affirmative

(ii) Point No.2 : As per final order

Regarding Point No.1:-

11. I have examined the materials placed before this Court.

12. It is the specific case of the prosecution that accused no.1-Hanumantharayappa gave blow to injured PW.2- Patel Hanumantharayapa on his head causing bleeding injury. Accused No.3-Nanjegowda gave blow to PW.2 with iron rod on his forehead and hands. Accused No.2-Shivakumar assaulted the injured PW.2 with club on

his legs. When the injured complainant PW.1-Chethana intervened to rescue PW.2, then all the accused assaulted her with hands and legs.

13. The material witness, injured complainant Smt.Chethana-PW.1 has not supported the case of prosecution. PW-2-Patel Hanumantharayappa said to be the injured has also not supported the case of prosecution. PW.3-Nanjundappa, PW.4-Eshwarappa and PW.5-Anjinappa, said to be the eye witnesses have not supported the case of prosecution. PW.6-S.Chandra, said to be the eye witness and also attester to the Mahazar-Ex.P7 has not supported the case of prosecution.

14. PW.7-Dr.Bhanu has deposed in her evidence as to the treatment extended to the injured PW.1-Smt.Chethana and found the injuries as per Ex.P8-wound certificate.

15. PW.9-Dr.Kiran, who has extended the treatment to PW.2, has deposed as to the examination of the injured PW.2-Patel Hanumantharayappa and found the injuries as per Ex.P10-wound certificate.

16. PW.8-S.M.Thimmaiah, Assistant Sub Inspector of Police, Gowribidanuru Rural Police Station has deposed as to their respective investigation.

17. All the material witnesses have been treated as hostile witness with the permission of the Court and cross examined by the Public Prosecutor. During the course of cross examination of PW.1, she has categorically denied the contents of Ex.P1 and Exs.P1(a) and (b). Another material witness injured PW.2 has also categorically denied the alleged assault made by the accused and also denied the statement under Section 161 of Cr.P.C. said to have been recorded by the I.O., which is marked as Ex.P3. The alleged eyewitnesses PWs.3 to 5 have also denied the statement recorded by the I.O. under Section 161 of

Cr.P.C. which are marked as Exs.P.4, 5, 5(a), 6 and 6(a). Accordingly, prosecution has failed to elicit any favourable answers from these material witnesses to substantiate the case of prosecution.

18. Though all the material witnesses have not supported the case of the prosecution, the trial Court has convicted the accused for the offence under Sections 323, 326 of IPC only on the basis of evidence of Medical Officer, which is not sustainable under law. It is the settled principle of law that the entire burden lies upon the prosecution to prove the guilt of the accused. When the prosecution has failed to place cogent, corroborating, trustworthy evidence before the Court, accused cannot be convicted. The trial Court has not properly appreciated the evidence on record in accordance with law and facts. Hence, I answer point no.1 in the affirmative.

Regarding Point No.2:-

19. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

(i) The appeal is ***allowed***;

(ii) The impugned judgment of conviction and order on sentence passed by the Principal District and Sessions Judge, Chikkaballapura, in S.C.No.162/2011 dated 05.01.2016 is hereby set aside;

(iii) The appellants/accused are acquitted for the offence under Sections 323, 326 read with 34 IPC;

(iv) The bail bonds of all the accused/appellants shall stand cancelled;

(v) The trial Court is directed to refund the fine amount, if any, deposited by the appellants.

Registry is directed to send the copy of this judgment along with TCR to the trial Court.

Sd/-
(G BASAVARAJA)
JUDGE

PGG
List No.: 1 Sl No.: 7