HC-KAR

NC: 2026:KHC:61381
CRL.A No. 564 of 2017

CNR: KAHC010490502017

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 564 OF 2017 (A)

BETWEEN:

1. THE STATE OF KARNATAKA
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BENGALURU-01.

...APPELLANT

(BY SRI. K. NAGESHWARAPPA, HCGP.)

AND:

1. SUBHASH HEGDE
S/O. VITTAL HEGDE,
AGED 33 YEARS,
R/O. HEGDE NIVASA,
MANTRADI, NELLIKARY VILLAGE,
MANGALURU TALUK-575 001.

2. HARISH ACHARYA
S/O. BABU ACHARYA,
AGED 28 YEARS,
R/O. HARIPRASAD HOUSE,
MANTRADI VILLAGE, PENCHARA POST,
MANGALURU TALUK-575 001.

3. VISHWANATHA POOJARY
S/O. SHANKARA POOJARY,
AGED 28 YEARS,
R/O. KEERTHI NIVASA, MANTRADI,
NELLIKARU VILLAGE,
MANGALURU TALUK-575 001.

...RESPONDENTS

(BY SRI. YATHIN B., ADV. FOR R1 & R2,
SRI. K. SHASHIKANTH PRASAD, ADV. FOR R3.)

Digitally signed by LAKSHMINARAYAN N
Location: High Court of Karnataka

CNR: KAHC010490502017

CRL.A. FILED U/S.378(1) AND (3) CR.P.C BY THE S.P.P. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO GRANT LEAVE TO APPEAL AGAINST THE JUDGEMENT AND ORDER DATED 09.11.2016 IN SPL.C.NO.2/2013 PASSED BY THE COURT OF THE II ADDL. DIST. AND SESSIONS(SPL.)JUDGE, D.K., MANGALORE ACQUITTING THE RESPONDENTS/ACCUSED FOR THE OFFENCES P/U/S 324,504 R/W 34 OF IPC AND SEC.3(12)(x) OF SC/ST (POA) ACT.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. State has preferred this appeal against the Judgment of acquittal dated 09.11.2016 passed in Special Case No.2/2013 by the II Addl. District and Sessions (Special) Judge, D.K., Mangaluru (for short "the trial Court").

2. For the sake of convenience, the parties herein are referred to as per the status before the trial Court.

3. Brief facts leading to this appeal are that the Assistant Commissioner of Police, North Sub-division, Panambur, Mangaluru laid sheet against accused 1 to 3 for the offence punishable under Sections 324, 504 read with

34 and Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. It is alleged by the prosecution that on 20.10.2012 when victims Ramesh and Manikanta were playing cricket in the playground of Mantradi Higher Primary School, accused 1 and 3, having common object, abused CWs.1 and 2 by referring to their caste and also tried to assault them. Upon questioning the same by CW1, accused No.2 fisted CW1 and gave blow with wicket to his head causing injury to him. Then accused Nos.1 to 3 fled from the spot. Thus, the accused committed the alleged offences.

4. After filing charge sheet, the trial Court has taken cognizance against the accused for commission of alleged offences. Accused appeared before the Court and were enlarged on bail. On hearing, the trial Court framed charges against the accused for alleged offences. The same were read over and explained to the accused in the language known to them. The accused pleaded not guilty and claimed to be tried. To prove the guilt of the accused,

18 witnesses were examined as PWs.1 to 18, 28 documents were marked as Exs.P1 to P28 and two material objects were marked as MOs.1 and 2. On closure of prosecution side evidence, statement of the accused under Section 313 of Cr.PC was recorded. Accused have totally denied the evidence appearing against them, however, they did not choose to lead any defence evidence on their behalf. Having heard the arguments on both sides, the trial Court acquitted the accused. Being aggrieved by the judgment of acquittal, the State has preferred this appeal.

5. The learned HCGP Sri K Nageshwarappa appearing for appellant-State, would submit that the Judgment of acquittal passed by the trial Court is contrary to evidence and material and record. The learned Judge has failed to properly appreciate the evidence placed on record in its proper perspective and the same has resulted in the miscarriage of Justice. He would submit that the PW1 is the complainant and the injured and he has

deposed against 1 to 3 that with an intention, they picked up quarrel and abused him and others in filthy language by referring their caste. He was assaulted with wicket on his head due to which he lost his conscious. The evidence of injured/complainant is corroborated by the evidence of PWs2 to 4, 8 and 10, which clearly disclose that the accused picked-up quarrel raising caste issue and abused PW2 in filthy language insulting his caste. PW16 is the Medical Officer, who treated the injured PW1. He has clearly deposed that he examined PW1 on 20.10.2012 at and noticed injury on his head and after treating him, he has issued wound certificate as per Exhibit P25. He has also stated that the said injury could be caused by wicket-MO1. Hence the prosecution has proved its case. The learned trial Judge has not appreciated the evidence on record in its proper perspective and has come to wrong conclusion. On all these grounds, it is sought to allow the appeal.

6. Sri Yathin B, learned counsel for respondents 1 and 2 and Sri K, Shashikanth Prasad learned counsel for respondent No.3, would support the impugned judgment of acquittal and submit that the trial Court has properly appreciated the evidence in accordance with law and accordingly, sought for dismissal of the appeal.

7. Having heard the arguments on both sides and on perusal of materials placed before this Court, the following points would arise for my consideration:

(1) Whether the State has made out grounds to interfere with the judgment of acquittal?
(2) What order?

8. My answer to the above points as under:

Point No.1: in the negative;
Point No.2: as per final order.

Regarding Point No.1:

9. Before appreciation of evidence on record, it is necessary to mention as to the judgments of the Hon'ble

Apex Court in the case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOUDA RUDRAGOUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and H.D. SUNDARA v. STATE OF KARNATAKA reported in (2023)9 SCC 581. The principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure are, the acquittal of the accused further strengthens the presumption of innocence; the appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence; the appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record; if the view taken is a possible view, the

appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible. The interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised only if the judgment of acquittal suffers from patent perversity; the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record

10. I have examined the materials placed before this Court. It is the case of the prosecution that, on 20.10.2012 at about 5:30 pm, when victims Ramesh and Manikanta were playing cricket in the playground of

Mantradi Higher Primary School, accused 1 and 3, having common object, abused CWs1 and 2 by referring to their caste and intentionally insulted them with intent to provoke breach of the public peace. Further, it is alleged that accused No.1 pushed PW1 and thereafter accused No.2 picked up a wicket and assaulted on the back side of the head of PW1 causing simple hurt. The accused knowing fully well that CWs.2 and 3 belong to Scheduled Caste, intentionally insulted and intimidated with intent to humiliate members of Scheduled Caste. Thus, the accused have committed the alleged offences.

11. PW1-Nithin Jain is the first informant and is stated to be injured in the incident. PW2-Ramesha, PW3-Manikanta, PW4-Ramesha, PW5-Francis, PW6-Shashidhara Poojary, PW7-Ravi, PW8-Ashok Kumar, PW9-Jinendra Jain, and PW10-Rajesh Acharya, stated to be the eyewitnesses to this incident. PW11-Praveen Kumar is also an eyewitness to the seizure mahazar-Ex.P17.

12. PW12-Harischandra Acharya and PW17-Srinath N Suvarna are the attesting witnesses to the seizure mahazar Ex.P18.

13. PW-13-Manjappa is the Head Constable and PW18-Ravi Kumar S, SP Lokayukta, have deposed as to their respective investigation.

14. PW14-Purushothama, Police Constable has deposed as to the arrest of the accused and produced before the SHO.

15. PW-15-Mohammed Hussain, Police Constable has deposed in his evidence as to carrying of FIR to the Magistrate.

16. PW16-Dr. Gruruprasad Adiga has deposed as to the treatment extended to the injured and also found injuries as per Ex.P25-Wound Certificate.

17. On appreciation of the entire evidence on record, in paragraph 24 of the judgment, the trial Court has observed as under:

"24. In the background of the above stated evidence by the prosecution witnesses, the say of the investigating officers namely P.W.13 to P.W.15 and P.W.17 will not be of much consequence, since they had spoken only about their respective role in the investigation. On a perusal and appreciation of the evidence of prosecution witnesses, it is seen that though the first informant/P.W.1 and other eyewitnesses have supported the prosecution case, their evidence is not corroborating to each other to inspire the confidence of the court. There are many discrepancies in their evidence. The first informant and some other prosecution witnesses though stated more or less as per the prosecution version of the case, there are many contradictions found in their cross-examination, which would make the case of the prosecution doubtful. These contradictions and discrepancies in the say of the prosecution witnesses would create a grave doubt regarding the alleged incident and the offences alleged against the accused. Under these circumstances, the benefit of doubt naturally goes to the accused. Therefore, I am of the opinion that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt for the aforesaid offences. Accordingly, the points No.1 to 3 are answered in the negative."

18. On re-appreciation, re-consideration and re-examination of the entire evidence on record, I do not find any legal or factual error committed by the trial Court.

Considering the facts and circumstances of the case and also keeping in mind the aforesaid decisions of the Hon'ble Supreme Court, I answer Point No.1 in the Negative.

Regarding Point No.2

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

O R D E R

Appeal is **dismissed**.

The Registry is directed to send copy of the judgment along with Trial Court Records, to the concerned Court.

Sd/-
(G BASAVARAJA)
JUDGE

LNN,DHA
List No.: 1 Sl No.: 50