HC-KAR

NC: 2026:KHC:60319
CRL.A No. 2055 of 2016

CNR: KAHC010493632016

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 2055 OF 2016 (A)

BETWEEN:

1. GOVINDAPPA
   S/O PILLAPPA
   AGED ABOUT 55 YEARS,
   R/A ALAMBADI VILLAG,E
   LAKKUR HOBLI, MALUR TALUK-563130.

...APPELLANT

(BY SRI. VARADARAJAN M S.,ADVOCATE)

AND:

1. THIMMARAYAPPA
   S/O GANGAPPA,
   AGED ABOUT 57 YEARS,
   R/A ANCHE MUSKUR VILLAGE,
   CHIKKATHIRUPATHI POST,
   MALUR TALUK.

...RESPONDENT

Digitally signed by
LAKSHMINARAYAN N
Location: High Court
of Karnataka

(BY SRI. M B CHANDRACHOODA .,ADVOCATE)

CRL.A. FILED U/S.378(4) CR.P.C BY THE ADV. FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT DATED 5.11.2016 PASSED BY THE II ADDL. C.J. AND J.M.F.C., MALUR IN C.C.NO.399/2009 - ACQUITTING THE RESPONDENT/ACCUSED FOR THE OFFENCE P/U/S 504 AND 506 OF IPC.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

CNR: KAHC010493632016

ORAL JUDGMENT

Appellant/complainant has preferred this appeal against the judgment of acquittal passed by the II Additional Civil Judge and JMFC at Malur in CC No.399 of 2009 dated 05.11.2016.

2. Brief facts leading to this appeal are that the complainant filed complaint under Section 200 of CrPC and the same came to be registered in PCR No.146 of 2009. After issuance of summons, cognizance was taken and the case was registered in CC No.399 of 2009 for offence punishable under Section 504 and 506(b) of Indian Penal Code. It is alleged by the complainant that on 02.09.2009 at 8.00 pm, when the complainant was waiting for a bus at Chikkatirupati Bus Stand, at that time, accused holding sickle, followed him and scolded him in filthy language and threatened his life and thus committed the alleged offence.

3. The trial Court framed charges and the same was read over and explain to the accused. Accuse pleaded not

guilty and claimed to be tried. To prove the guilt of the accused, complainant has examined two witnesses as PWs1 and 2 and produced 5 documents as Exhibits P1 to P5. On closure of complainant side evidence, statement and Section 313 of CRPC was recorded. Accused has totally denied the evidence of PWs1 and 2, however, he did not choose to lead any defence evidence on his behalf. The trial Court has not provided an opportunity to the both the parties and rejected the prayer of the complainant and passed the judgment on the same day i.e. on 5.11.2016 by acquitting the accused. Being aggrieved by the judgment of acquittal, applicant has preferred this appeal.

4. Sri Varadarajan M.S., learned Counsel appearing for the appellant would submit that the trial Court has not provided an opportunity to submit the arguments on behalf of the complainant. Hence, he sought for remanding the case to the trial Court to provide opportunity to the complainant to submit his arguments and accordingly sought to allow the appeal.

5. As against this, Sri M.B. Chandrachooda, learned counsel appearing for the respondent submits that there is no evidence to prove the guilt of the accused. Since there is a civil dispute between the parties, false complaint was filed against the accused and accordingly, sought for dismissal of appeal.

6. Having heard the arguments on both sides and on perusal of materials place before this court, the following points would arise for my consideration:

1. Whether the complainant/appellant has made out ground to remand the case to the trial court to provide opportunity to him to submit his arguments?

2. What order?

7. My answer to the above points are:

Point No.1: in the affirmative;

Point No.2: as per final order.

Regarding Point No.1:

8. I have examined the materials placed before the court. The complainant has filed complaint under section 200 of CrPC against the accused for the offence punishable under Section 307 and 506 of IPC and the same came to be registered as PCR No.146 of 2009. After recording the sworn statement of the appellant, the trial Court has taken cognizance against the accused for the offence punishable and under Section 504 and 506(b) of the Indian Penal Code. Summons were issued to the accused. Accused did not appear before the Court and hence, NBW was issued. Then accused appeared before the court and was enlarged on bail. The trial Court has taken cognizance for the offence under Section 504 and 504(b) of IPC, the trial Court has not recorded the evidence before charge as required under Section 244 of CrPC. However, the trial court has framed charges for the offence under Sections 504 and 506 of Indian Penal Code. The trial Court has not framed charge for the offence under Section 506(b) of

IPC. The alleged offence under Section 506 of IPC is punishable with only two years imprisonment or fine or both.

9. The trial Court has recorded the evidence of PWs1 and 2 and posted the case for statement under Section 313 of CrPC on 5.11.2016. On that day, the trial Court has recorded the statement under Section 313 of CrPC and on the same day. The trial Court has pronounced the judgment without providing an opportunity to both the parties, despite the complainant Counsel seeking time to submit his arguments. The trial Court has not provided opportunity to the complaint to submit his arguments on merits of the case and has violated the principles of natural justice and passed the impugned judgment of acquittal. Hence, I answer Point No.1 in the affirmative.

Regading Point No.2:

For the reasons aforestated, I proceed to pass the following:

O R D E R

i. Appeal is allowed;

ii. The judgment of acquittal dated 05.11.2016 passed in CC No.399 of 2009 by the II Additional Civil Judge and JMFC, Malur, is set aside;

iii. The case is remitted to the II Additional Civil Judge and JMFC Malur with a direction to provide opportunity to the complainant to submit his arguments. The trial Court is also directed to provide an opportunity to the accused to submit his arguments. Thereafter, the trial court shall proceed with a case in accordance with law;

iv. Both the parties are directed to appear before the II Additional Civil Judge and JMFC, Malur on **30.11.2026**, without waiting for any notice in this regard;

v. The trial Court is directed to dispose of the case within three months from the date of appearance of the parties.

Registry is directed to send the TCR along with the copy of this judgment to the concerned court.

Sd/-
(G BASAVARAJA)
JUDGE

LNN
List No.: 1 Sl No.: 87