HC-KAR

NC: 2026:KHC:61405
CRL.A No. 1138 of 2016

CNR: KAHC010519602016

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. 1138 OF 2016

BETWEEN:

THE STATE OF KARNATAKA
REPRESENTED BY THE ASSISTANT
SUPERINTENDENT OF POLICE
KUNDAPURA SUB DIVISION,
REPRESENTED BY SPP,
BANGALORE - 560 001.

...APPELLANT

(BY SRI. K. NAGESHWARAPPA, HCGP)

AND:

1. SMT. VINODA SHEDTHY
W/O CHANDRA,
R/O ANGADIBETTU, KORAVADY,
KUMBHASHI VILLAGE,
KUNDAPURA TALUK
UDUPI DISTRICT - 576 201.

2. MANJU K
S/O KOTI
AGED 38 YEARS
R/O ANGADIBETTU, KORAVADI,
KUMBHASHI VILLAGE, KUNDAPURA TALUK,
UDUPI DISTRICT - 576 201.

...RESPONDENTS

(BY SRI. K. PRASANNA SHETTY, ADVOCATE)

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LAKSHMINARAYAN N
Location: High Court
of Karnataka

THIS CRL.A. IS FILED U/S.378(1) AND (3) OF CR.P.C PRAYING TO GRANT LEAVE TO FILE AN APPEAL AGAINST THE JUDGEMENT AND ORDER DATED 10.03.2016 PASSED IN SPL.C.NO.1/2011 ON THE FILE OF PRL. SESSIONS/SPL. JUDGE, UDUPI DIST., UDUPI, ACQUITTING THE RESPONDENT FOR THE OFFENCE P/U/S 341, 323 OF IPC AND SEC. 3(1)(x) OF SC/ST (POA) ACT.

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

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

The police report has not been issued with regard to the defacto complainant.

2. Learned HCGP seeks time to serve notice. Since the State has preferred this appeal, it is the duty of the State to serve notice on the victim. However, the State has not complied with the order of this Court.

3. The State has preferred this appeal against the judgment of acquittal passed by the Principal Sessions

Judge/Special Judge, Udupi, in Special Case No. 1/2011 dated 10.03.2016.

4. The brief facts leading to this appeal are:

The Assistant Superintendent of Police, Kundapura Sub-Division, has alleged, on behalf of the prosecution, that on 10-11-2010 at about 6.30 p.m., the accused wrongfully restrained PW.2 Manju from proceeding ahead on his bicycle along with PW.4 Subramanya by stopping his bicycle and pushing the same while they were going on the mud road near the house of the accused. When PW.2 Manju stated that he does not know when the accused questioned with regard to the teasing of her daughter in connection with the electric pole, the accused assaulted him with his hand and abused him as "ನೀನು ಕೂಸಾಳು ನನ್ನ ಮಗಳಿಗೆ ನೀನೇನು ಹೇಳುವುದು," referring to his caste in a public place, knowing fully well that he belongs to a Scheduled Caste. Thus, the accused has committed the alleged offence.

5. After filing charge sheet, accused was secured before the trial Court and was enlarged on bail. On hearing the charges, the trial Court framed the charges against the accused for the alleged commission of offences; the same was read over and explained to the accused. The accused pleaded not guilty and claimed to be tried.

6. To prove the guilt of the accused, 9 witnesses were examined as PW1 to PW9. 8 documents were marked as Exhibits P1 to P8. No material objects were marked on behalf of the prosecution. On closure of the prosecution evidence, the statement under Section 313 of the CrPC was recorded. The accused totally denied the evidence of the prosecution witnesses. However, he did not choose to lead any defence evidence on his behalf. Exhibits D1 to D9 were marked during the course of cross-examination of the prosecution witnesses. Having heard the arguments on both sides, the trial Court acquitted the accused.

7. Being aggrieved by the judgment of acquittal, the State has preferred this appeal. The learned HCGP,

Sri.K.Nageshwarappa, submits that the impugned judgment and order of acquittal recorded by the trial Court are opposed to law, facts, the probabilities of the case, and the evidence on record. The learned Sessions Judge has not properly appreciated the evidence of PW2, the victim, the evidence of PW1, the doctor, and wound certificate Exhibit P12. The learned Sessions Judge also failed to appreciate the evidence of PW5, who is a material witness to the case of the prosecution. The trial Court has failed to appreciate the evidence on record in accordance with law and facts, and accordingly, he sought to allow this appeal.

8. The learned counsel for the respondent submits that the trial Court has properly appreciated the evidence on record in accordance with law and facts, and sought dismissal of the appeal.

9. Having heard the arguments on both sides, the following points arise for my consideration:

i. Whether the State has made out grounds to interfere with the impugned judgment of acquittal?

ii. What order?

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

i. Negative.

ii. As per the final order.

Regarding Point No.1:

11. I have examined the materials placed before this Court. To prove the guilt of the accused, prosecution has examined 9 witnesses as PW1 to 9. PW.1 is the doctor who examined PW.2 Manju and issued wound certificate Ex.P1 and also intimated to the police by sending Ex.P2 MLC intimation. PW.2 is Manju and he is the complainant and the injured. PW.3 is Tahsildar who issued Ex.P4 Caste Certificate of PW.2 Manju and accused. PW.4 is Subramanya is an eyewitness to the incident and he has

shown spot to the police. PW.5 is Manjunath Hathwar who came to the spot after the incident and took PW.2 Manju on his bike and dropped him to Kumbashi. PW.6-Raghavendra is panch to Ex.P5 spot mahazar. PW.7 is W.P.C. who carried Ex.P7 F.I.R. and Ex.P3 complaint and handed over the same to the Special Judge. PW.8 is the Head Constable who received Ex.P2 MLC intimation from Taluk Government Hospital, Kumbashi and who went to the hospital and recorded the statement of PW.2 Manju who was admitted in the hospital and thereafter, came back to the police station and registered the case on the basis of Ex.P3 Statement of PW.2 Manju. PW.9 is the A.S.P. who is the Investigating Officer.

12. On careful examination of the entire evidence on record the trial Court has observed in paragraphs No.14 to 16 are as under:

> *"14. PW.2 has deposed that accused abused touching his caste and insulted him in public place and it annoyed him. PW 2 in the cross-examination has stated before him that he was annoyed as the accused abused touching his caste but police have*

not mentioned the same in his statement and he has not asked the police why they have not mentioned the same in his statement. Ex.P3 is the statement of PW.2. There is no mention of the same in it. PW.9 A.S.P. who is the Investigating Officer who has recorded the statement of PW.2 has stated in the cross-examination that PW.2 has not stated before him that he has been annoyed. Therefore, the said aspect deposed by PW.2 is an improvement.

15. PW.2 has stated in the cross-examination that he was having facial acquaintance with the accused. PW.2 in the cross-examination has admitted the suggestion that accused Vinoda Shedthi had filed complaint against him and Ganesh in Women Police Station on 28-08-2010 and he has given undertaking not to indulge in criminal act against Vinoda Shedthi and her daughter in Women Police Station. Exs.D1 to D4 are the said copies of NC acknowledgement petition, statement of Manju, statement of Ganesh and endorsement dated:28-08-2010. The very said documents go to show that he is well acquainted with the accused. Even though PW.2 is well acquainted with the accused, he has stated in the cross-examination that he was having facial acquaintance with the accused. The very said documents Exs.D1 to D5 go to show that earlier there was quarrel between PW 2 and the accused and the police have warned PW.2. The very said aspect goes to show that there was enmity between PW.2 Manju and accused Vinoda Shedthi.

16. PW.2 has deposed that at the time of incident his mobile, cash and golden chain cut, fell on the ground and he does not know what happened to the said articles and cash. PW.2 in the cross-examination has stated that he has stated before the police about the mobile number. weight of golden chain and cash. But the same is not mentioned in the statement Ex.P3 statement of PW.2. N PW.2 has stated in the cross-examination that he did not get back his mobile

phone, golden chain and cash and he has asked the police to get back his mobile phone, golden chain and cash. PW.2 has further stated that he has not taken any legal action for getting mobile phone, golden chain and cash. PW.4 has deposed that at the time of incident, golden chain, mobile and cash of Manju fell on the ground. PW.4 in the cross-examination has stated that he did not collect mobile phone, cash and golden chain fell on the road and he does not know total cash fell on the road. PW.5 has deposed that he came to the spot after the incident and PW.2 has narrated about the incident before him. PW.5 has stated in the cross-examination that there was no articles fallen on the road except cycle when he went there. PW.4 has stated that after 5-10 minutes Manjunath Hathwar came on his bike and he enquired PW.4 has stated in the cross-about the matter. examination that Manju and Hathwar went first and thereafter, he went and he does not know whether said articles were on the road when Hathwar came there. He does not know whether Manju told Hathwar about his articles fell on the road. The said evidence goes to show that even after PWs.2 and 5 went away from the spot, PW.4 remained on the spot but he is not aware about what happened to the mobile, cash and golden chain fell on the spot. PW.2 has stated in the cross-examination that no others came to the spot at the time of incident. The very said aspect goes to show that PWs.2 and 4 are deposing falsely that mobile phone, cash and golden chain of PW.2 fell on the spot at the time of incident."

13. On re-appreciation/ re-examination and reconsideration of the entire evidence on record, I do not find any factual or legal error committed by the trial Court. Hence, I answer **Point No.1:** in the 'Negative'.

Regarding Point No.2: For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

Appeal is ***dismissed.***

Sd/-
(G BASAVARAJA)
JUDGE

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List No.: 1 Sl No.: 13