

KABR040208252023



Presented on : 29-05-2023
Registered on : 29-05-2023
Decided on : 01-04-2025
Duration : 1 years, 10 months, 3 days

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE,
BENGALURU RURAL DISTRICT, BENGALURU.

-: Present :-

Sri. Mohanagowda M.E., B.A., LL.B.,
Chief Judicial Magistrate,
Bengaluru Rural District, Bengaluru.

C.C. No.11780/2023

Dated, the 1st day of April 2025.

Complainant: State by Byadarahalli Police

(By :Sr. APP)

- V/s -

- Accused:
1. Prasanna Kumar P., @ Prasannana,
S/o. Palanethra,
Aged about 32 years,
R/at. No.36/37, Near Prasidency
School, Mithravrunda Nagara,
Thigalarapalya, Bengaluru-58.
 2. Prasanna M.K. S/o. Kumara,
Aged about 22 years,
Aged about 22 years,
R/at.No.36/37, Near Prasidency
School, Mithravrunda Nagara,
Thigalarapalya, Bengaluru-58.

(Accused By Sri.MRH., Advocate)

1. Date of commission of offence : 28.05.2023
2. Date of report of offence: 29.05.2023
3. Date of recording evidence: 15.07.2024
4. Date of closing evidence: 05.03.2025
5. Offence complained of : U/sec.323, 324, 504 r/w 34 of IPC.
6. Opinion of the Judge : Accused found not guilty.

J U D G M E N T

The jurisdictional Police have filed the charge sheet against the accused No.1 and 2 alleging the commission of offences punishable U/s 323, 324, 504 r/w 34 of IPC.

2. The case of the prosecution in nutshell is as under:-

"That on 28.05.2023, at about 8:00 p.m., when CW1 was standing in front of Site No.36, Mitravrundanagar, Raghavendra Colony, Thigalarapalya, both the accused, in furtherance of their common intention, picked a quarrel with CW1 regarding the compound wall. During the altercation, the accused abused CW1 in filthy language and assaulted him using their hands and a club. In view of the above, the accused is alleged to have committed the aforesaid offences.

3. After registration of FIR, the investigation officer has taken up the investigation and after collecting all the materials filed the charge sheet against the accused. This Court has taken cognizance of the offenses and issued summons to the accused all the accused appeared before the Court. Accused appeared before the Court. Charge sheet copies and other prosecution papers furnished to the accused as contemplated under section 207 of Cr.P.C. On hearing both sides, charges framed and

contents read over to the accused. The accused pleaded not guilty and claimed to be tried.

4. To establish the guilt of the accused, the prosecution has examined PW.1 to 4, Ex.P.1 to 5 and M.O.1 club got marked. Since there were no incriminating circumstances against the accused persons, the statement U/sec.313 of Cr.P.C. was dispensed with.

5. Thereafter, arguments were heard.

6. Now the points that arise for my determination are: -

1) Whether the prosecution beyond all reasonable doubt proved that on 28.05.2023, at about 8:00 p.m., when CW1 was standing in front of Site No.36, Mitravrundanagar, Raghavendra Colony, Thigalarapalya, both the accused, in furtherance of their common intention, picked a quarrel with CW1 regarding the compound wall. During the altercation, the accused abused CW1 in filthy language and assaulted him using their hands and a club and thereby accused committed the offences punishable U/sec.323, 324, 504 r/w 34 of IPC?

2) What Order?

7. On hearing the arguments and on perusal of the materials placed on record, my answers to: -

Point No.1:- In the Negative

Point No.2:- As per final order
for the following:-

REASONS

Point No.1 :-

8. The case of the prosecution is already narrated at the inception of this judgment hence, without repeating the same, I

proceed to appreciate the evidence on records. Further, I have carefully perused the oral and documentary evidence on records, in my humble opinion, some portion of the evidence is irrelevant, hence without wasting much time on explaining its irrelevancy this court proceeds to appreciate the material evidence.

9. To establish the guilt of the accused, the prosecution examined PW.1 to 4, Ex.P.1 to 5 got marked. PW1 is victim and first informant, PW2 and 3 are victims, PW4 is eye witness. Ex.P1 is first information statement, Ex.P2 is mahazar, Ex.P3 to 5 are statements of PW2 to 4. All the documents marked on behalf of the prosecution aren't of equal importance, hence without wasting much time this court proceeds to appreciate the relevant documents only.

10. To prove its case the prosecution has examined two witnesses. PW1 is victim and first informant, PW2 and 3 are victims and PW4 is eye witness, they all turned hostile to the prosecution case. According to the witnesses evidence the accused did not abuse CW1 in filthy language, did not assault PW1 to 3 by hands and clubs. They denied the prosecution story in total, as such there is no incriminating evidence on record for the offenses punishable under Sec.323, 324, 504 r/w 34 of IPC. It is crucial to note that they are the only material witnesses to the incident and they have not supported the prosecution case. It is a settled position of law that mere suggestions are not sufficient to dislodge or disprove the case of a party. Suggestions in the cross-examination have no evidentiary value. In absence of any evidence, nor any material traced in the cross-examination in support thereof, the court can't base its decision on suggestions. The Hon'ble High Court Gujarat in *Legal Heirs*

of Umedmiya R Rathod Vs State of Gujarat in First Appeal NO. 5952 of 1995 affirmed the above proposition of law. In the present case, the learned APP made several suggestions to witnesses during the cross-examination but the witnesses denied all material suggestions, except mere suggestions and denials nothing worth, was elicited in the cross-examination, hence there is no reason to disbelieve the version of the witnesses.

11. It is the paramount duty of the prosecution to establish the guilt of the accused beyond all reasonable doubt. Unless the guilt is established beyond all reasonable doubt, the accused cannot be held guilty of the alleged offenses.

12. In the present case, it is important to note that the material witnesses have denied the alleged commission of the offense by the accused. As such, the entire prosecution case fails. Had the prosecution examined other witnesses, no purpose would have been served since the prosecution has failed to prove the case against the accused at the initial stage itself. Even if other formal witnesses are examined in the present case, the accused certainly would be entitled to benefit of the doubt since material witnesses turned hostile to the prosecution case. It is an accepted principle of criminal jurisprudence that the burden of proof is always on the prosecution and the accused is presumed to be innocent unless proved guilty. The prosecution has to prove its case beyond reasonable doubt and the accused is entitled to the benefit of the reasonable doubt. The reasonable doubt is one that occurs to a prudent and reasonable man. The doubt which the law contemplates is not of a confused mind but of prudent man who is assumed to possess the capacity to

“separate the chaff from the grain”. The Hon’ble Apex Court in *Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537* affirmed the above proposition of law. In the present case on perusal of prosecution evidence, the material witnesses turned hostile, hence even if the other witnesses support the prosecution case then also the accused would be entitled for benefit of doubt.

13. In view of the above reasons and discussions I hold that the prosecution has failed to adduce cogent, corroborative, trustworthy, believable evidence before the court and the available evidence doesn't inspire the confidence of this court. For the foregoing reasons and discussions, this court is of the opinion that the prosecution failed to prove the accusations leveled against the accused beyond reasonable doubt. Hence this court answers Points No.1 in the Negative.

Point No.2: -

14. In view of the aforesaid reasons, I proceed to pass the following:-

O R D E R

Accused No.1 and 2 found not guilty and they are acquitted for the offenses punishable U/sec. 323, 324, 504 r/w 34 of IPC and they are set at liberty.

The bail bond of the accused and surety bond shall continue for a period of six months from the date of this Judgment.

Office is directed to destroy the
M.O.1 club after appeal period is
over.

(Dictated to the steno, typed by steno directly on computer, after
corrections, pronounced in the open Court on 1st day of April 2025)

(Mohanagowda M.E.,)
Chief Judicial Magistrate,
Bengaluru Rural District, Bengaluru.

ANNEXURE

1) List of Witnesses examined for prosecution:-

PW.1	:	Suhas
PW.2	:	Ramu
PW.3	:	Subbalakshmi
PW.4	:	Mayur

2) List of documents marked on behalf of prosecution:-

Ex.P.1	:	First information statement
Ex.P2	:	Mahazar
Ex.P3 to 5	:	Statement of PW2 to 4.

3) List of M.O. marked for prosecution:-

M.O.1	:	Club
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4) List of witness examined on behalf of Accused:-

-Nil-

5) List of documents marked on behalf of Accused:-

-Nil-

Chief Judicial Magistrate,
Bengaluru Rural District, Bengaluru.

Judgment pronounced in the Open
Court vide green sheet

ORDER

Accused No.1 and 2 found not guilty and they are acquitted for the offenses punishable U/sec. 323, 324, 504 r/w 34 of IPC and they are set at liberty.

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*Chief Judicial Magistrate,
Bengaluru Rural District, Bengaluru.*

