

**IN THE COURT OF ADDL. CIVIL JUDGE AND JMFC, ANEKAL
AT: ANEKAL**

***** PRESENT *****

SRI. CHIDANAND BADIGER

B.A., LL.B (Spl)

**Addl. Civil Judge and JMFC,
Anekal**

This 11th day of July 2018

CC.No.399/2014

Complainant : State by Jigani Police

- : Versus : -

Accused : Narayana .N S/o. Nallappa, Age: 26 years,
R/at: Vaddarapalya village, Jigani Hobli,
Anekal Taluk.

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01	Case Number	CC.No.399/2014
02	Date of Commission of offence	30-05-2013
03	Date of Report of offence	01-06-2013
04	Date of Arrest of the accused	Not Arrested
05	Number of days accused under gone in custody	Nil
06	Name of the Informant	Lakshamma @ Lakshmi
07	Date of Recording evidence	04-07-2018
08	Date of closing evidence	04-07-2018
09	Offence complained of	U/s.323, 354, 448, 506 of IPC
10	Opinion of the judge	Accused found not guilty
11	State Represented by	Asst. Public Prosecutor
12	Accused Represented by	Sri.CMR advocate
13	Date of Judgment	11 th day July 2018
14	Total duration for the trial	0 years 0 month 07 days

- || J U D G E M E N T || -

This case emanates from the charge sheet filed by the police Sub Inspector of Jigani PS arising out of their police

station Cr.No.090/2013 against the accused for his alleged commission of offences punishable U/s.323, 354, 448, 506 of IPC.

1. The allegation as against the accused is that, on 30-05-2013 at about 7-30 AM in Vaddarapalya village, the accused has unlawfully trespassed into the house of CW-1 and attempted to outrage her modesty by holding her braid, gagged her mouth and assaulted with legs and gave life threat. Therefore, CW-1 had given information to Jigani police. Thereby the accused had been booked for the offences punishable U/s.323, 354, 448, 506 of IPC.

2. After completion of the investigation the investigating agency had filed the Charge Sheet against the accused for the offences punishable U/s.323, 354, 448, 506 of IPC.

3. After receipt of the final report this court had taken cognizance for the above offences and registered the criminal case at CC.No.399/2014 and issued process against the accused. In pursuance of the summons the accused has appeared before the court and he has enlarged on bail. The

copies of the prosecution papers were being supplied to the accused in compliance of Sec.207 of Cr.P.C.

4. Heard accused before Charge. As there are sufficient grounds to proceed against the accused, the charges for the offences punishable U/s.323, 354, 448, 506 of IPC had been framed. The same had been read over and explained to the accused in the Language known to him and he pleaded not guilty and claim to be tried.

5. In order to prove the guilt of the accused, the prosecution has examined one witness as PW-1 and got marked Ex.P 1 and 2 documents. Since the material witness had not supported the case, the request of the learned APP to summon the remaining formal and official witnesses is rejected. And the remaining witnesses had been dropped from the examination.

6. No incriminating circumstances found against the accused and hence, Statement U/sec. 313 of Cr.P.C is dispensed with.

7. Heard both learned APP and counsel for the Accused.

8. The following points that arose for my determination:

-|| P O I N T S ||-

1. Whether the prosecution proves beyond all reasonable doubt that, on 30-05-2013 at about 7-30PM in Vaddarapalya village, the accused has unlawfully trespassed into the house of CW-1 and thereby committed an offence punishable U/sec.448 of IPC?

2. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date time and place the accused has assaulted CW-1 with legs and thereby committed an offence punishable U/sec.323 of IPC

3. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date time and place the accused has attempted to outrage her modesty by holding her braid and gagged her mouth and thereby committed an offence punishable U/sec. 354 of IPC?

4. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date time and place the accused has gave life threat to CW-1 and thereby committed an offence punishable U/sec. 506 of IPC?

5. What order?

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

Points No.1 to 4 - In the **Negative**

Point No.5 - As per final order for the following:

-|| R E A S O N S ||-

10. Points No.1 to 4 : on 30-05-2013 at about 7-30 AM in Vaddarapalya village, the accused has unlawfully trespassed

into the house of CW-1 and attempted to outrage her modesty by holding her braid, gagged her mouth and assaulted with legs and gave life threat. Therefore, CW-1 had given information to Jigani police. Thereby the accused had been booked for the offences punishable U/s.323, 354, 448, 506 of IPC. In order to prove the guilt of the accused the prosecution relied on the evidence of the PW-1 and Ex.P1 and 2 documents.

11. PW-1 Lakshamma who is complainant and Mahazure witness has deposed that, she knew the accused. About 5 years back there was a dispute between the accused and her in respect of money. The accused has not assaulted her with hands, has not unlawfully trespassed into her house, has not jostile her and outraged her modesty and has not gave life threat. She further deposed that, she has given complaint before the police only with regard the verbal exchanges as per Ex-P1. The police have came to the spot and conducted mahazue as per Ex.P2. She does not know the contents of Ex.P2.

12. Learned APP with the leave of the court cross examined these witnesses by confronting his previous statement as per Ex.P1 to 3 but nothing has been elicited from the mouth of the PW-1 and 2 in support of the prosecution case. Since, complainant, injured, mahazure and eye witnesses turned hostile, there was no need to summon the remaining witnesses. Even if, they summoned and examined them no fruitful purpose would have been served. Accordingly remaining witnesses have been dropped from the examination.

13. In a criminal case the testimony of injured and complainant carries much weight. Usually, the injured will never give up real assailant. Since, the injured, complainant, and mahazure witness declined to depose against the accused and admitted that he and the accused has compromised out of the court, no much discussion is necessary. The prosecution has failed to prove the guilt of the accused probably due to hostility of material witnesses. Hence, I answer Points No.1 to 4 in the **Negative**.

14. **Point No.5:** For the forgoing reasons, I proceed to pass the following:

-|| O R D E R ||-

Acting U/sec. 248(1) of Cr.P.C the accused is hereby acquitted for the offences punishable U/s.323, 354, 448, 506 of IPC.

The bail bonds and surety bonds stand cancelled and surety is discharged.

(Dictated to the stenographer directly on the laptop, typed by her, corrected by me and then pronounced in the open court this the 11th day of July 2018)

(Chidanand Badiger)
Addl. Civil Judge and JMFC
Anekal.

-|| A N N E X U R E S ||-**List of witnesses examined for prosecution:**

PW-1 - Lakshamma W/o Doddaiah

List of documents marked for prosecution:

Ex.P1 - Complaint

Ex.P1(a) - Signature

Ex.P2 - Mahazure

Ex.P2(a) - Signature

List of witnesses examined by defence: Nil**List of documents marked for prosecution: Nil****List of Mos marked: Nil**

(Chidanand Badiger)
Addl. Civil Judge and JMFC, Anekal.