

IN THE COURT OF THE IX ADDL.CHIEF METROPOLITAN
MAGISTRATE, AT BANGALORE.

Dated this the 13th day of October 2015

Present : Shri J.V.Vijayananda B.Com., LL.B
IX Addl.C.M.M.Bangalore.

JUDGMENT UNDER SEC.355 OF Cr.P.C.

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| 1.C.C.No. | 12934/2012 |
| 2.Date of Offence | 28-9-2011 |
| 3.Complainant | State by Jnanabharathi Police Station |
| 4.Accused | <ol style="list-style-type: none">1. Rajendra @ Gandhi
S/o. Shanmuga, aged 22 years,
7th Cross, 2nd Main,
Bhuvaneshwarinagar, Bangalore.2. Manjunath @ Manja
S/o. Thiyammarayashetty, aged
22 years, No.335, 11th Cross,
Bhuvaneshwarinagar, Bangalore.3. Shivakumar L @ Dabbashiva
S/o Lingaiah, aged 23 years,
1st Cross, Mariyappanapalya,
Bangalore.4. Ananda @ Suresh @ Konga
S/o Late Rajagopala, aged 22
years, Maruthi nagar,
Sonnenahalli, Maruthi Nagar,
Bangalore. |
| 5. Offences complained of | Under Sections 341, 323, 324, 504 and 506 r/w 34 of IPC. |
| 6.Plea | Accused Nos.1 to 4 pleaded not guilty. |

7.Final Order Accused Nos.1 to 4 are acquitted

8.Date of Order 13-10-2015

REASONS

The Sub Inspector of Police, Jnanabharathi Police Station, Bangalore has filed this charge sheet against the accused Nos.1 to 4 for the offences punishable under section 341, 323, 324, 504 and 506 r/w 34 of IPC.

2. The brief facts of the prosecution case are that, on 28-9-2011 at 6-00 p.m., in Spoorthi Wines shop situated at Ullal main road, within the limits of Jnanabharathi Police Station, the accused persons were quarreling with C.W.6 in respect of supply of liquor. At that time, when C.W.1 D.C.Srikanth intervened, the accused persons with common intention picked up quarrel with him, wrongfully restrained him, abused him in filthy language as ನಿನ್ನಮನ್ ಕೇಯಾ ನೀನೇನು ಮದ್ಯ ಬರ್ತೀಯಾ ನಿನಮ್ಮನ್ ನಿನ್ನಕ್ಕನ್ and thereby gave provocation to him to break the public peace and accused No.1 voluntarily caused simple hurt with knife on his hands, accused No.2 voluntarily caused simple hurt with club on his body and all the accused persons threatened him with dire consequences of life and thereby committed aforesaid offences.

3. The accused Nos.1 to 4 are on bail. On receipt of chargesheet, this court took cognizance of the offences and furnished the copies of the prosecution papers to the accused Nos.1 to 4. After hearing on charges, this court framed the

charge for the offences punishable u/s 341, 323, 324, 504 and 506 r/w 34 of IPC., for which the accused Nos.1 to 4 pleaded not guilty and claimed to tried.

4. The prosecution in order to prove its case got examined only one witness as P.W.1 and got marked two documents at Exs.P1 and P.2. Since C.Ws.2 to 12 did not turn up before this court, by rejecting the prayer of Sr.APP, this court dropped the said witnesses.

5. Since, there is no incriminating evidence against the accused Nos.1 to 4, their statement under Sec.313 of Cr.P.C., is dispensed with.

6. I have heard the arguments on both sides.

7. The prosecution to prove the guilt against the accused Nos.1 to 4 has examined only one witness by name D.C. Srikanth the complainant and only injured witness. His testimony indicating that on 28-9-2011 at 6-00 p.m., in Spoorthi Wines situated at Ullal main road, the accused persons were quarreling with C.W.6-Kiran. When he intervened, there was an exchange of words between him and accused persons. But, the accused persons have not wrongfully restrained him, they have not caused any type of injuries either with hands or with any objects, they have not abused him in filthy language, they have not threatened him with dire consequences of life. In respect of exchange of words when he visited Police Station the police obtained his

signature. But he does not know the contents of complaint. Further, the police have not prepared any mahazar and they have not seized any objects. Totally, P.W.1 has turned hostile. The learned Sr.APP., treated this witness as hostile and further cross examined him but nothing worth is elicited from him. The other witnesses on record are mahazar witnesses, eyewitness medical officer and Investigating Officer. Since P.W.1 the only material witness has not supported the case of the prosecution, no purpose would serve in examination other witnesses on record. Accordingly, by rejecting the prayed of learned Sr.APP., examination of C.Ws.2 to 2 dropped. Hence, I am of the considered opinion that the prosecution has failed to prove guilt against accused Nos.1 to 4 beyond all reasonable doubt. In the result, I proceed to pass the following:

ORDER

This court did not found guilt of accused Nos.1 to 4 for the offences under section 341, 323, 324, 504 and 506 r/w 34 of IPC.

Hence, acting under Sec.248(1) of Cr.P.C., the accused Nos.1 to 4 have been acquitted for the above referred offences.

Their bail bonds and suety bonds stand cancelled.

The property seized under P.F.No.123/2011 one club is being worthless shall be destroyed and property seized under

P.F.No.124/2011 one knife is confiscated to government after appeal period is over.

(Dictated to the Stenographer directly on computer and print out taken by her is verified and then pronounced by me in the open court on this the 13th day of October 2015)

(J.V.Vijayananda)
IX Addl.Chief Metropolitan Magistrate,
Bangalore.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION:

P.W.1, D.C. Srikanth

LIST OF DOCUMENTS MARKED ON BEHALF OF THE PROSECUTION:

Ex.P1, Complaint,
Ex.P1(a), Signature of P.W.1,
Ex.P2, Mahazar
Ex.P2(a), Signature of P.W.1;

LIST OF MATERIAL OBJECTS MARKED ON BEHALF OF THE PROSECUTION : NIL

LIST OF WITNESSES EXAMINED, DOCUMENTS & MATERIALS MARKED ON BEHALF OF THE DEFENCE:
NIL

IX ADDL.C.M.M.
Bangalore.