

KABG010089832022



IN THE COURT OF HON'BLE III ADDL. SESSIONS JUDGE
The Exclusive Special Court Constituted for Offence Triable Under
Scheduled Castes & Scheduled Tribes [Prevention of Atrocities] Act
AT: BELAGAVI

DATED: 31st DAY OF JULY 2026

BEFORE:

Ms. SAVITHA KUMARI. N. B.A.L., LL.B.,

In The Matter of Special Case Under S.C. & S.T.[PoA] Act
Spl. Case No. 290 of 2022

BETWEEN:

State of Karnataka,
Represented by
The Station House Officer,
Aigali Police Station,
District Belagavi

Complainant

AND

Shri. Mallesh A.k.a
Mallappa Dnyandev Mali,
& 7 others

Accused

AND

Shri. Sunil Shankar Gadivaddar

Informant

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Form No. 8 [Criminal] Calendar of Original Cases Ch. XII, R-1 [1]
Criminal Rules of Practise

I N D E X

Sl. No	Calendar Of Events	Details
1	Serial No. Case	Cr. No. 109 of 2022
		Spl. C No. 290 of 2022
2	Name of Complainant :	Shri. Sunil Shankar Gadivaddar
3	Name of accused	
	Name of first accused	Shri. Mallesh A.k.a Mallappa Mali

	Name of Second accused	Shri. Suresh Mali
	Name of Third accused	Shri. Vitthal Mali
	Name of Fourth accused	Shri. Basu
	Name of Fifth accused	Shri. Appu
	Name of Sixth accused	Shri. Hanamant Mali
	Name of Seventh accused	Shri. Raju Malabadi
	Name of Eighth accused	Shri. Danesh
4	Father of First Accused	Shri. Dnyandev Mali
	Father of Second Accused	Shri. Vittal Mali
	Father of Third Accused	Shri. Laxman Mali
	Father of Fourth Accused	Shri. Laxman Mali
	Father of Fifth Accused	Shri. Laxman Mali
	Father of Sixth Accused	Shri. Vittal Mali
	Father of Seventh Accused	Shri. Gurappa Malabadi
	Father of Eighth Accused	Shri. Gurappa Malabadi
5	Calling Name of Accused	
	Accused No.1	Mallappa Mali
	Accused No.4	Basappa Mali
	Accused No.5	Appasab Mali
	Accused No.8	Danappa Malabadi
6	Age of the Accused at the time of incident	A-1 : Aged 27 years
		A-2 : Aged 26 years
		A-3 : Aged 65 years
		A-4 : Aged 55 years

		A-5 : Aged 52 years
		A-6 : Aged 32 years
		A-7 : Aged 33 years
		A-8 : Aged 36 years
7	Residence of first accused to Eighth accused	Suttatti, Taluk: Athani, District: Belagavi.
8	Offence Complained of	Offence Under Section 143 Section 147 Section 148 Section 363 read with 149 Section 324 read with 149, Section 504 read with 149, Section 506 read with 149 of Indian Penal Code. & Offence Under Section 3[1] [r] Section 3[1][s] Section 3[2][va] of Scheduled Caste and Scheduled Tribes [Prevention of Atrocities] Act 1989 and Amendment Act 2015.
9	Date of Occurrence	14-09-2022
10	Date of Complaint or Report	16-09-2022
11	Date of Arrest by the Police	A-1: 16-09-2022
		A-2: 17-09-2022
		A-3: 13-12-2022
		A-4: 17-10-2022
		A-5: 17-09-2022

		A-6: 13-12-2022
		A-7: 13-12-2022
		A-8: 13-12-2022
12	Date of First Appearance of Accused	17-09-2022
13	Date of Commencement of Trial	26-09-2025
1x 4	Date of Closing of Trial	18-06-2026
15	Result of Trial	Acquittal

SAVITHA KUMARI. N
III ADDL. SESSIONS JUDGE
THE EXCLUSIVE SPECIAL COURT
Constituted for Offence Triable Under
Scheduled Castes & Scheduled Tribes
[Prevention Of Atrocities] Act
Belagavi

IN THE COURT OF HON'BLE III ADDL. SESSIONS JUDGE
The Exclusive Special Court Constituted for Offence Triable under
Scheduled Castes & Scheduled Tribes [Prevention of Atrocities] Act.
AT: BELAGAVI

DATED: 31st DAY OF JULY 2026

BEFORE:

Ms. SAVITHA KUMARI. N. B.A.L., LL.B.,

In The Matter of Sessions Case Under S.C. & S.T.[PoA] Act
Spl.Case No. 290 of 2022

BETWEEN:

State of Karnataka,
Represented by
The Station House Officer,
Aigali Police, Taluka Athani,
District Belagavi.

[By Learned Special Public Prosecutor]

Complainant

AND

Shri. Sunil Gadivaddar,
Son of Shri. Shankar Gadivaddar,
Aged about 26 years,
Resident of Suttatti, Taluk: Athani,
District: Belagavi.

Informant

[In compliance of Section 15-A [5]
of Scheduled Castes & Scheduled Tribes
[Prevention of Atrocities Act]

AND

Shri. Mallesh A.k.a Mallappa Mali,
Son of Shri. Dnyandev Mali,
Aged about 27 years,
Resident of : Suttatti,
Taluk: Athani, District: Belagavi.

Accused No.1

Shri. Suresh Mali,
Son of Shri. Vittal Mali,
Aged about 26 years,
Resident of : Suttatti,
Taluk: Athani, District: Belagavi.

Accused No.2

Shri. Vittal Mali, Son of Shri. Laxman Mali Aged about 65 years, Resident of : Suttatti, Taluk: Athani, District: Belagavi.	Accused No.3
Shri. Basu A.k.a Basappa Mali, Son of Shri. Laxman Mali, Aged about 55 years, Resident of : Suttatti, Taluk: Athani, District: Belagavi.	Accused No.4
Shri. Appu A.k.a Appasab Mali, Son of Shri. Laxman Mali, Aged about 52 years, Resident of : Suttatti, Taluk: Athani, District: Belagavi.	Accused No.5
Shri. Hanamant Mali, Son of Shri. Vittal Mali, Aged about 32 years, Resident of : Suttatti, Taluk: Athani, District: Belagavi.	Accused No.6
Shri. Raju Malabadi, Son of Shri. Gurappa Malabadi, Aged about 33 years, Resident of : Suttatti, Taluk: Athani, District: Belagavi.	Accused No.7
Shri. Danesh A.k.a Danappa Malabadi, Aged about 36 years, Resident of : Suttatti, Taluk: Athani, District: Belagavi. [A-1 to A-9 Rep by Adv. Shri. M.S.P.]	Accused No. 8

JUDGMENT

UNDER SECTION 235[1] OF THE CODE OF CRIMINAL PROCEDURE

1. The eight accused in this case are Charged with offence punishable under Offence Under Section 143, Section 147, Section 148, Section 363, Section 324 read with 149 Section 504 read with 149, Section 506 read with 149, Section 3[1][r],Section 3[1][s], Section 3[2][va] of Scheduled Caste and Scheduled Tribes [Prevention of Atrocities] Act 1989 and Amendment Act 2015.

Section 143 of Indian Penal Code	Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.
Section 147 of Indian Penal Code.	Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
Section 148 of Indian Penal Code.	Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
Section 363 read with Section 149 of Indian Penal Code.	Whoever kidnaps any person from India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.
Section 504 read with 149 of Indian Penal Code.	Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be

	likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
Section 506 read with 149 of Indian Penal Code.	Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. If threat be to cause death or grievous hurt, etc.— And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.
Section 3[1][r] of Scheduled Caste and Scheduled Tribe[Prevention of Atrocities] Act, 1989 and Amendment Act 2015	Whoever not being the member of Schedule caste or Schedule Tribe, intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;
Section 3[1][s] of Scheduled Caste and Scheduled Tribe[Prevention of Atrocities] Act, 1989 and Amendment Act 2015.	Whoever not being the member of Schedule caste or Schedule Tribe, abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;
Section 3(2)(va) in The Scheduled Castes and the	(va)commits any offence specified in the Schedule, against a person or property, knowing that such person is a

Scheduled Tribes (Prevention of Atrocities) Act, 1989	member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;
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2. In order to appreciate the efforts of prosecution to drive home the guilt in accused to discharge onus cast upon the complainant prosecution, projection of the prosecution and the defence shall be considered in-depth.

COMPLAINT

3. The projection of case of prosecution is that, a computer word processed complaint at Ex.P-1 is lodged by one Shri. Sunil Gadivaddar on 16-09-2022 at about 14:30 Hrs at the complainant police station stating that the informant and his brother Suresh Gadivaddar had been to medical store of one Shri Nagesh More to fetch an ointment that was required for younger son of the informant. After fetching the ointment both informant and his brother Suresh Gadivaddar cited as C.W.-8 examined as P.W.-13 had parked their two-wheeler and

chatting Infront of house of one Smt. Champavva Jambagi cited as C.W.- 16 examined as P.W.-15.

4. And at that juncture all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked him away without assigning the reason despite the informant seeking the reason for taking P.W.-13.

5. Therefore C.W.-1 one Shri. Sunil Gadivaddar the P.W.-1 gathered C.W.-9 one Shri. Sabu Gadivaddar examined as P.W.-8, C.W.-10 one Shri. Ashok Gadivaddar examined as P.W.-9, C.W.-11 one Shri. Ajith Gadivaddar not examined straightway head to the house of father of first accused Jnandev Mali and when enquired Jnandev Mali responded his ignorance about the whisked away brother of P.W.-1. Therefore P.W.-1 and P.W.-7, P.W.-8, P.W.-9 and C.W.-11 came on to the road and were awaiting on the road. At that juncture the first and second accused came along with accused No.3

to accused No. 8 came [to the place where the the informant and his accompaniment were waiting], armed with stick and electric cable. One Hanumanth Mali accused No. 6, attempted to assault one Raju Gadivaddar C.W.-12 examined as P.W.-7, with the stick brought along with them that missed and hit Jnandev Mali the father of accused No.1 who suffered injury on the head.

6. However, third accused accused to eighth accused assaulted others who had accompanied P.W.-1 with bear hands. The informant sensing that untoward incident may occur left that place, only to return along with P.W.-7, P.W.-8, and P.W.-9 and C.W.-11 and saw injured P.W.-13 and one another Shri. Sabu Gadivaddar cited as C.W.-9 examined as P.W.- 8 were made to sit in front of house of Jnandev Mali and all the accused ran way.

7. Upon enquiry it was revealed by P.W.-13 that the first and second accused having brought P.W.-13 on motorcycle, whisked P.W.-13 to Sugar cane plantation of

first accused and questioning about telephonic calls made to the sister of first accused by P.W.-13, was beaten up with folded cable on his back.

8. Further having fetched one Mallappa Madar cited as C.W.-13 examined as P.W.-10 who had disclosed the cellular phone number of the sister of first accused one Smt. Rajashree cited as C.W.-17 examined as P.W.-14 and he was also beaten up with bear hands and thereafter dropped to his house. Later sixth accused and C.W.-15 Saabu Mali picked up the P.W.-13 injured from sugar cane plantation in a motor car and dropped the P.W.-13 and P.W.-12 to the house of Jnandev Mali.

9. Having seen the condition of both P.W.-13 and P.W.-08 they were rushed to Taluka Civil hospital Athani and later on for better treatment both were shunted to a private hospital that is known Gunjigavi Multi speciality Hospital at Athani. Later on, P.W.-1 having consulted elders and family members lodges the present complaint on 16-09-2022.

REGISTRATION OF CRIME

10. This complaint at Ex.P.-1 was received by C.W.-32 one Sri. Shivaji Hanamant Talawar, Police Sub-Inspector of complainant Police Station cited as C.W.-32 examined as P.W.-19 who registers the Crime in Cr. No. 109 of 2022 and also proceeds to lodge the First Informant Report the F I R at Ex. P.-46.

11. This F I R has been dispatched to Designated Court at Belagavi through one Shri. S.B. Chouhan a Civil Police Head Constable with Buckle No. 3544, cited as C.W.-19 not examined during trial as given up from examination by prosecution at about 15:30 Hrs on 16-09-2022.

12. The Designated Court has received the same at 20:30 Hours on the same day of 16-09-2022, apart from sending the same to the superior officers, the FIR having disclosed the offence under special enactment the superior officers appointed one shri. Shripad Jalde Cited as C.W.-33 examined as P.W.- 18 as contemplated under the then Rule 7 of The Scheduled Castes and The

Scheduled Tribes [Prevention Of Atrocities] Rules, 1989 [Central ACT No. 33 OF 1989] [September 1989] [As amended by Karnataka Amendment Act XXXV of 2003, Karnataka Amendment Act I of 2016, and Karnataka Amendment Act 27 of 2018 and Karnataka Amendment Act 34 of 2019] and as per this Rule the whole of the investigation has to be carried out by the officer by State that in Karnataka being the Deputy Superintendent of Police.

13. P.W.-18 having taken up the investigation instructs P.W.-19 to trace the accused persons and accordingly P.W.-19 has traced the second accused, third accused, fourth accused and fifth accused and caused their custody and produced the said accused before the investigation officer P.W.-18 on 17-09-2022 at 08:00 Hrs.

14. In the mean while the first accused had come to lodge the complaint in the evening of 16-09-2022 and knowing that this complaint is lodged against the said accused also the police head constable one Shri. B. B.

Patil cited as C.W.-25 not examined during the trial detained first accused and cause produced before P.W.-18 the investigation officer.

15. The investigation officer upon arrest of second accused has recorded the voluntary statement of second accused that lead to discovery and consequent recovery of Motorcycle that was used for picking up P.W.-13 and two cables used for assaulting P.W.-13 and a stick that was also used for assault in presence of C.W.-4 one Shri. Manjunath examined as P.W.-5 and one Shri. Siddappa cited as C.W.-5 examined as P.W.-6 and Mahazar at Ex.P-12 was drawn on 17-09-2022 in between 12:40 to 13:30.

16. At the time of drawing up of Mahazar at Ex. P.-12 the photograph at Ex. P.-13 to Ex. P-16 were captured. The articles that were recovered are marked at M.O.-1, the Motorcycle, M.O.-3, and M.O.-4 the cables.

17. Thereafter voluntary statement of first accused was recorded on 17-09-2022 and that lead to

discovery and consequent recovery of M.O.-2 the metal shovel with wooden handle the photographs of which were captured that is at Ex. P.-17 and Ex. P.-18 and a Mahazar was drawn that is part of Ex. P.- 12 styled as running Mahazar.

18. All these four accused persons in compliance with the procedure of arrest were facilitated with medical examination and caused produced before this Court and that remanded the accused persons to judicial custody.

19. The investigation officer later on reduces to the writing the Further Statements of P.W.-1 and statements of P.W.-7 and P.W.-9 who spoke about the episode.

20. P.W.-1 on 17-09-2022 further lead the police party to the place where the informant and his accomplice were assaulted and therefore having inspected the spot in front of house of Jnandev Mali a Mahazar at Ex.P.-6 was drawn in presence of one

Shri. Mayappa cited as C.W.-2, examined as P.W.-2 and one Shri. Mahaveer cited as C.W.-3 examined as P.W.-3 in between 15: 30 Hrs to 16: 30 Hrs and the photograph at Ex.P.-3 was captured and a rough sketch at Ex. P- 33 was also drawn.

21. In furtherance of investigation P.W.-18 has conducted one another Mahazar at the place of kidnap of Suresh Gadivaddar Infront of house of Champavva Jambagi in presence of P.W.-2 and P.W.-3 in between 16:45 Hrs to 17:30 Hrs. the said Mahazar is at Ex P.-7 and the photograph captured at the spot is at Ex.P.-4 and Ex. P.-5. The investigation officer later on reduces to the writing the statements of P.W.-10, P.W.-11, P.W-12, P.W-14, P.W.-15, who also spoke about the episode.

22. On 19-09-2022 P.W-18 requisitions C.W.-31 The Tahasildar Athani to issue caste certificate of victim as well as the accused . In response to the same C.W.-31 issued the caste certificate that is at Ex. P.-29 that certifies the caste of the victim and Informant as caste

Hindu Vaddar. The first accused, second accused and third accused are not members of Scheduled castes or Scheduled Tribes.

23. The investigation officer having collected the records pertaining to the house of father of first accused, certification regarding photograph those are computer output under Section 65 B of Evidence Act, and wound certificate apart from drawing a Mahazar that is at Ex. P.- 9 on 05-10-2022, in between 16:00 Hrs and 17:00 Hrs in presence of P.W.-4 and C.W.-7 at the sugar cane plantation where P.W.-13 was first assaulted and later P.W.-7 having fetched thereat was also assaulted by first and second accused.

24. The investigation officer having completed the investigation thus far, compiling all the material collected during the investigation draws a charge sheet.

DRAWING UP OF CHARGE SHEET

25. P.W.-18 the investigation officer compiled all the above materials, being subjectively satisfied that

there is sufficient material to send the accused for trial draws up a Charge Sheet dated 14-11-2022 that was actually received by the Court on 18-11-2022. This Court took cognizance of the offences narrated in the Charge Sheet on 02-12-2022.

PRE-TRIAL PROCEEDINGS

26. The prosecution that had cited in all 33 witnesses as C.W.-1 to C.W.-33 examined only 19 witnesses at P.W.-1 to P.W.-19. The documents collected during investigation were marked at Ex. P.-1 to Ex. P.-46 with sub-markings and the material object collected were marked as M.O.-1 to M.O.-4.

27. Thereafter the accused were examined on 25-06-2026 as stipulated under Section 313 of the Code. Where the accused except denying the incriminating evidence did not choose to explain regarding any of such incriminating testimony or documentary evidence or the material objects.

28. The accused did not choose to enter defence by examine themselves by lodging application under

Section 315 of Code of Criminal Procedure nor examine any witnesses as contemplated under Section 233[1] of Code. So also, the accused did not choose to lodge Written Statement as contemplated under section 233[2] of Code of Criminal Procedure.

29. Thereafter this Court proceeded to hear the submission of the Learned Exclusive Public Prosecutor and Learned Advocate for the accused and the arguments concluded from both sides and now posted for judgement on this 29th day of July 2026.

POINTS FOR CONSIDERATION

30. In this backdrop the points that merit the consideration of this Court are as follows:-

- I. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of

a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction an offence punishable under Section 363 of Indian Penal Code?

- II. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused caused abduction of the P.W.-13 to the land of first accused and thereat assaulted P.W.-13 with electric cable when the first accused and second accused having heard the commotion

at the house at a short distance rushed to the house and gathered saw the informant and one another person P.W.-8 thereat having brought iron shovel assaulted the and thereby caused hurt with dangerous weapon and thereby committed offence punishable under Section 324 of Indian Penal Code?

- III. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction of P.W.-13 to the land of first accused and having heard the commotion in front house of first accused the first accused along with second accused formed unlawful assembly along with 6 other

accused and thereby committed offence punishable under Section 143 of Indian penal Code?

- IV. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction of P.W.-13 to the land of first accused and having heard the commotion in front house of first accused the first accused along with second accused formed unlawful assembly along with 6 other accused and and having assaulted the victims in this case committed offence of rioting and thereby committed offence punishable under Section 147 of Indian penal Code?

V. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction of P.W.-13 to the land of first accused and having heard the commotion in front house of first accused the first accused along with second accused formed unlawful assembly along with 6 other accused and and having assaulted the victims in this case committed offence of rioting armed with iron shovel with wooden handle and thereby committed offence punishable under Section 148 of Indian penal Code?

VI. Whether the prosecution proves beyond reasonable doubts that while the informant

Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction of P.W.-13 to the land of first accused and having heard the commotion in front house of first accused the first accused along with second accused formed unlawful assembly along with 6 other accused and and having assaulted the victims in this case committed offence of rioting armed with iron shovel with wooden handle caused hurt with deadly weapon P.W.- 8 and instigated the informant and others to disturb the peace thereby all the accused committed offence punishable under Section 504 of Indian penal Code read with Section 149 of Indian Penal Code?

VII. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction of P.W.-13 to the land of first accused and having heard the commotion in front house of first accused the first accused along with second accused formed unlawful assembly along with 6 other accused and having assaulted the victims in this case committed offence of rioting armed with iron shovel with wooden handle caused hurt with deadly weapon P.W.- 8 and criminally intimidated the victims with dire consequences and all the accused committed offence punishable under Section 506 of Indian

penal Code read with Section 149 of Indian Penal Code?

VIII. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction of P.W.-13 to the land of first accused and having heard the commotion in front house of first accused the first accused along with second accused formed unlawful assembly along with 6 other accused and and having assaulted the victims in this case committed offence of rioting armed with iron shovel with wooden handle caused hurt with deadly weapon P.W.-8 and instigated the informant and others to disturb the peace

and threatened informant and other victims and also abused in public view by abusing in vulgar language and by naming caste of victim P.W.-1 to P.W.-7 P.W.-8, P.W.-9 to P.W.-13, thereby all the accused committed offence punishable under Section 3[1][r] of Scheduled Caste and Scheduled Tribe penal Code read with Section 149 of Indian Penal Code?

- IX. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction of P.W.-13 to the land of first accused and having heard the commotion in front house of first accused the first accused along with second accused

formed unlawful assembly along with 6 other accused and having assaulted the victims in this case committed offence of rioting armed with iron shovel with wooden handle caused hurt with deadly weapon P.W.-8 and instigated the informant and others to disturb the peace and threatened informant and other victims and also abused in public view by abusing in vulgar language and by naming caste of victim P.W.-1 to P.W.-7 P.W.-8, P.W.-9 to P.W.-13, for the reason of these victims being member of scheduled Caste thereby all the accused committed offence punishable under Section 3[1][s] of Scheduled Caste and Scheduled Tribe penal Code read with Section 149 of Indian Penal Code?

- X. Whether the prosecution proves beyond reasonable doubts that while the informant Shri. Sunil Gadivaddar along with his brother Shri. Suresh Gadivaddar having returned from Medical Shop of one Shri Nagesh More informant P.W.-1 and P.W.-13 had parked their two-wheeler and chatting in front of house of one Smt. Champavva Jambagi examined as P.W.-15 on 14-09-2022 at about 18:00 Hrs all of a sudden the first accused and the second

accused came to the said place and the second accused forcefully made P.W.-13 to sit on the motorcycle and whisked P.W.-13 and thereby first accused and second accused committed offence of Abduction of P.W.-13 to the land of first accused and having heard the commotion in front house of first accused the first accused along with second accused formed unlawful assembly along with 6 other accused and and having assaulted the victims in this case committed scheduled offences indicated in the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act and thereby all the accused committed offence punishable under Section 3[2][va] of Scheduled Caste and Scheduled Tribe penal Code read with Section 149 of Indian Penal Code?

XI. What the should the Judgement be?

31. In the light of the facts, circumstances, and material available on record I have gone through the Complaint, First Information Report, the entire Charge Sheet, and I have read the depositions and perused the exhibits, the Statement of accusation. Taking into

consideration all these materials placed before me, I proceed to determine the Points for Consideration based on the following reasons: -

REASONS

32. At the outset in order to prove the allegations the prosecution has examined 33 witnesses out of 19 witnesses cited. The first and foremost crucial witness is the informant C.W.-1 examined as P.W.-1 who has set the wheels of the prosecution into motion by lodgement of compliant. However apparently there is a delay of 44 hours after the episode. In Column No. 3 [c] of F I R the reason for delay has been attributed to not just medical purposes but that the informant had to discuss and deliberate and later the compliant came to be lodged.

33. The delay can be understood for being medical examination. However the injury narrated by doctor P.W.-16 and P.W.-17 indicate the nature of injury as simple with two abrasions on the back and the assault made on one Sabu babu Vaddar also suffered simple injury in the form of scratch wound on forehead and

other injury on knee and all the injuries are detailed as Simple in Nature.

34. In this case the delay owing to medical reasons is not backed up by even oral testimony regarding issuance of M L C. there is no whisper by appropriate person except reference number, whereas in the Cross case there is testimony of witnesses about issuance of M L C. However there is no M L C available on record.

35. However the said doctor has not been examined. Thus delay is improperly explained on this Count. The disturbing factor is that there is deliberation within family before lodgement of compliant. This is absurd. In fact delay alone is sufficient to render compliant bereft of natural flow of narration and inputs of afterthought cannot be ruled out as there can be exercise of cumulative afterthought.

36. However the compliant and F I R on its own reasons of delay are not the principle piece of evidence

not the compliant an encyclopaedia of crime. Therefore the testimony of P.W.-1 regarding lodgement of complaint is certainly after thought as by then Jnanadev Mali father of first accused was in hospital.

37. However the victim in this case had also been to hospital. The injuries narrated are simple in nature and assault by folded cable has left only abrasion. And the victim never lodged compliant but it is lodged by his brother P.W.-1 who had not suffered any injuries.

38. Thus in both this case and cross case the compliant emanates only after gap of about 44 to 48 hours. Either there was attempt for closing the issues or each one waited move of the other. The fact remains from testimony of this witness that both warring factions were present at one spot owing to acts of P.W.-13 that is substantial disturbing and P.W.-13 himself can be termed as aggressor.

39. Further the whole episode commences with wrong as police could have been approached by the first

accused for such torment meted out by the P.W.-13 to the sister of the first accused who has testified before Court as P.W.-14. Even in this case P.W.-14 asserts the intimation of torment came to knowledge of the husband and parents and in turn results in episode and this witness is not cross examined. Thus the igniting point by acts of P.W.-13 is fully established. In fact citing this witness is an unanswered question as her brother is first accused in this case.

40. Therefore what could have been resolved by talks the weapons have spoken on either side. That is the crux of the matter. The assault by the informant in this case upon father of first accused is evident and vice-a-versa assault by first accused on P.W.-13 and consequences that followed is equally evident.

41. The caste of victim in this belong to the scheduled caste being Caste Hindu "Vaddar" that is at Ex.P.-29 issued by C.W.-31. There is no dispute regarding this. However all that is required to

understand also that this offence is not caste oriented but unwarranted acts of P.W.-13 that is virtually admitted by both sides.

42. Therefore the informant on this side and police having invoked provisions of Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act turns out be point of questioning as to whether there were abuses and assault on the basis of caste.

43. P.W.-1 in this regard states that without naming specific accused and context in generality that the accused abused by naming caste and also threatened that the victims will be done away with, and will not be allowed to live in village. This is commonest of statement found in all cases and until victim is specific of who amongst the accused abused the victim.

44. Therefore it is apparent that the informant is attempting to avenge against accused based on caste. That is not proper and it will only demean the enactment and abuse of enactment and ultimately render it as

redundant that we have seen with other enactment brought in with zeal but abusing will render it less meaningful.

45. Further this is not offence if that be so inferred only for the reason that victims are members of scheduled caste this offence was inflicted as it revolves around tormenting meted out to P.W.-14. However testimony of this witness P.W.-1 does not inspire confidence in respect of invoking offence under Section 3[1][r] and Section 3[1][s] of Scheduled Castes and Scheduled Tribes[Prevention of Atrocities] Act. Let me proceed with testimony of this witness cross examination.

46. In the cross examination. Though this witness states that including P.W.-1 four others were injured. However only two Wound Certificate is on record at Ex.P.-27 with respect to Shri. Suresh Gadivaddar being assaulted in sugarcane plantation and Ex.P.-28 with respect to one Shri. Sabu Gadivaddar with respect to

episode in front of house of first accused is placed before Court as Ex.P.- This Sabu Vaddar P.W.-8 though said to be injured, P.W.-1 fails to identify who had assaulted this P.W.-8. Therefore the mere general allegations galore in this case.

47. Therefore even if that be so then liability cannot be fixed. Further it is said that first and second accused is supposed to have confessed before this P.W.-1 that P.W.-13 is assaulted by first and second accused. Thus it is evident that unnatural story has been woven by this witness dissipating credibility of this witness.

48. P.W.-2 and P.W.-3 are witnesses to Mahazar at Ex.P.-6. However these witnesses state that the mahazar was drawn in front of house of first accused and specific place of kidnap of P.W.-13 is not stated as detailed in Ex.P.-7. These witnesses also do not know anything regarding or purpose of the Mahazars. The witness also does not know the contents of writing. These witness also

do not speak of recovery. Hence there is nothing inculpatory that can be derived from these witnesses.

49. P.W.-4 is a witness to the Mahazar who is favourable to prosecution speaking of Mahazar at Ex.P.-9 drawn at the sugarcane plantation where the P.W.-13 is assaulted. However irrespective of cross examination nothing incriminating is available except that P.W.-13 points out the place.

50. P.W.-5 and P.W.-6 are the witnesses to the Mahazar at Ex.P.-12 that stands to recover at the behest of first accused wherein the cable, and the metal shovel with wooden handle is recovered from near the well.

51. These P.W.-5 and P.W.-6 have been unfavourable to prosecution and dispute the recover of M.O.-1 Motorcycle and M.O.-2 shovel M.O.-3 and M.O.-4 the cable. And thus when recovery is not proved the usage of same for commission of offence cannot be inferred despite cross examination of prosecution that failed to bring out recovery.

52. P.W.-7, P.W.-8 and P.W.-9 are said to have been informed by P.W.-1 that first accused and second accused had whisked away P.W.-13. Therefore all these witnesses proceeded to the house of first accused. It is stated that only father of first accused was thereat and later first and second accused arrived whereas P.W.-8 speaks that by the time all these go over to house of first accused the already seven persons were present and these were beaten up.

53. Whereas P.W.-9 toes the line of P.W.-7 in stating that after first accused and second accused threatened the victims and later other accused persons assembled and when the first accused swung the shovel it missed the P.W.-7 and hit P.W.-8. None of these witnesses P.W.-7 and P.W.-9 though allege assault no Medical Certificate is produced.

54. However this distorted non-corroborative version of each witness makes the entire narration of these witnesses unbelievable. However when assault

was inflicted all ran away except P.W.-7 and later this P.W.-7 was made to sit with P.W.-13 of house of first accused.

55. It is further astonishing fact that has emanated that only first and second accused are said to have abducted the P.W.-13. When P.W.-1 and other came to the house in village of that of first accused, the first accused never brought P.W.-13 along with him and unnaturally, P.W.-13 had been awaiting in planation only to be escorted by P.W.-11 and P.W.-12. Thus the persons who had come to know whereabouts of P.W.-13 after being few were assaulted these suffers go and fetch P.W.-13. The blatant lie of case gets exposed.

56. P.W.-13 narrates about abduction and further reiterates the assault by cable and pipe on his back and assault with hands. However though complaint is not an encyclopaedia of crime at least the usage of pipe is not spoken to by any of witness or doctor or is there injury narrated in medical evidence i.e. wound certificate at

Ex.P.-27 and Ex.P.-40. Therefore the narration of victim looses ground from under the feet of this witness with spilling what is not truth.

57. Further considering evidence as a whole the sequence of episode of reality is not forthcoming. The simple injuries have been magnified into an episode. However there is some element of truth and apparently wholesale inclusion of family of first accused appears to be more than truth, as role of accused in commission of crime and specified overt acts.

58. However all the witnesses make generalized statement. And a few make specific allegations. According P.W.-13 he was picked up from street opposite to the house of one Champavva P.W.-15 that is totally denied by this witness and police intended to introduce her as an eyewitness and failed miserably when this witness P.W.-15 denied she ever questioned first accused and second accused. P.W.-13 further deposes that she was shunted to the sugarcane

plantation forcibly. At the plantation he was questioned about making call to P.W.-8 sister of first accused. There after there was assault with cable and pipe. However the Witness P.W.-13 fails to state who had assaulted with cable who had assaulted with pipe.

59. Further place of incident is first got indicated under Voluntary Statement of accused on 17-09-2022 under Mahazar Ex.P.-12 is witness by P.W.-5 and P.W.-6 state that these witnesses affixed their signature in front of house of father of first accused and never speaks of recovery and P.W.-5 and P.W.-6 do not speak of recovery of cable or pipe. Thus recovery is never proved through this Mahazar.

60. Later the victim never identifies the place but indicated by informant who was never present at that place nor on record at any point of time this informant had visited the place earlier identifies the place in Sugarcane Field on 05-10-2022 under Mahazar at Ex.P.-9. P.W.-4 Basavaraj is witness to this Mahazar who has

supported under nil recovery Mahazar. Therefore recovery of cable at M.O.-3 and M.O.-4 do not get proved.

61. Even the shovel being handed over at the time of drawing Mahazar, the witness to this Mahazar does not speak as to from whom and from where it was recovered that is at M.O.-2. Thus none of weapon used gets proved and the person who used it also never gets proved. Therefore where there is disjuncture between weapons recovered and the accused the guilt in accused cannot be inferred.

62. P.W.-14 is the sister of first accused who was tormented by P.W.-13. This witness is introduced to narrate tormenting caused by the P.W.-13 and she having informed her parents and brother it is claimed by prosecution that the accused persons nurtured grudge against P.W.-13 and therefore first accused and second accused kidnapped the victim and assaulted him. Naturally there is no cross examination and this was neither disputed fact.

63. P.W.-16 is the doctor who treated P.W.-13 the victim and in the medical certificate it is noted that “multiple patterned abrasion and contusion of 15 C.m. X 0.5 Cm and 10 C. m. X 0.5 C. m. and P.W.-16 while deposing states that it was scratch wound in Kannada “ತರಚಿದ ಘಾಯ”

64. The short concern of this Court is whether this testimony is trust worthy as otherwise assault by cable will not cause such abrasion but it causes a contusion and colouration of superficial skin underneath the skin deep where blood from delicate capillaries clot. Thus even in the narration of injury it fails to tally with M.O.-3 and M.O.-4.

65. Further this Medical Certificate there was pain in left wrist and palm. Now this cause of pain does not get any explanation of assault. The Medical Certificate at Ex.P.-40 does not speak of all these except two injuries of Multiple elongated mark. The first doctor P.W.-16 narrates length of one and the medical evidence at Ex.P.-40 there are two. Thus there is non-

corroboration even in medical evidence at Ex.P.-27 and Ex.P.-40. Apparent manipulation cannot be ruled out. Hence now the injuries as well get disjuncture with allegations of assault and actual injuries suffered.

66. P.W.-17 is another doctor who treated P.W.-9 one Sabu gadi Vaddar as per Ex.P.-28. This Wound Certificate states that abrasion over forehead at parting of hairs on the head. 2 X 0.5 cm. and 2 X 1 cm. These are miniscule. It is the case of prosecution that this victim was assaulted by sixth accused with metal shovel. However these injuries are touch and go effects and not direct assault as narrated in testimony of P.W.-8.

67. Therefore these slight harms negligible and it is further set out that this witness was beaten up by Cable at M.O.-3 and M.O.-4. None of the witness spoke about the first accused or sixth accused or any accused carried the cable and had come in front of house of father of first accused. Though this witness claims he is beaten by the cable as well as shovel the injuries do not tally with

narration. It is further stated by naming all the accused that they had assaulted. However it apparently does not tally with injuries or even contusion.

68. P.W.-19 is the officer who received the compliant and registered crime. And further investigation is handed over P.W.-18. The only suggestions made to this witness by defence that to aid the informant such false compliant is lodged. However registration of crime cannot draw inference of malafide on the part of the police.

69. Further P.W.-18 the investigation officer steps into witness box and reiterates the investigation carried out that has been narrated in the prelude to this judgement.

70. The cross examination of P.W.-18. The cross examination is highly superficial that does not cut the root of investigation in any manner except suggesting that all that has been done in investigation is false. No anomalies in investigation were extracted from this

witness. Ultimately converging on the testimonies of all witnesses, it is a case where the informant and family were panicky in the process when P.W.-13 was picked by in process, otherwise than lodging compliant before police against P.W.-13.

71. The real culprit who has caused so many accused and yet P.W.-13 has gone free despite being author of all the torment to P.W.-8 and no case is booked against P.W.-13 for tormenting a married woman and soliciting the P.W.-8 the sister of the first accused in this case.

72. This culprit P.W.-13 has not been arraigned as accused when the issue between two families as admitted the phone calls made by P.W.-13 was the root cause of turbulence. Naturally it manifests that protection afforded by the police to this P.W.-13 who is neither a witness in cross case. Comfortably this P.W.-13 has been made witness and let go by the police. It is natural for family of P.W.-14 sister of first accused to question

conduct of P.W.-13. However the accused herein had had no right to deal physically. However caste factor is imported and tried to derive best advantage in pinning these accused in cross case.

73. Further it is obvious that Court cannot be concerned with who has given compliant first. It is matter of evidence in each case despite that there is case and cross case. Therefore in this case it is obvious that the injuries so acclaimed by injured in this case like scratch wound there could not have been a compliant registered that was miniscule.

74. In this regard I place reliance on the Judgement of Hon'ble High Court of Karnataka in CRIMINAL PETITION No. 3597 OF 2022 Between Sri Rithesh Pais and State of Karnataka

63. Sans details, facts in brief germane for consideration of the lis are as follows

is further alleged that in front of witnesses CW-2 to CW-6 the accused/petitioner addressed the

complainant taking the name of his caste, threatened his life and obstructed construction activity of CW-7. Based upon this incident, a complaint is registered by the 2nd respondent/complainant against the petitioner alleging that he has hurled abuses taking the name of his caste which would become offence punishable under Section 3(1)(r) and 3(1)(s) of the Act. The police after investigation have filed a charge sheet. Filing of the charge sheet against the petitioner for offences punishable under the aforementioned provisions of the Act and Sections 504, 506 and 323 of the IPC in Special Case No. 5023 of 2021 is what drives the petitioner to this Court in the subject petition.

If the complaint, summary of charge sheet and the statement of witnesses, CW-2 in particular, are read in tandem, it would unmistakably reveal that hurling of abuses has happened at the basement where CWs-1 to 6 were working and in the basement, it is not indicated, any other person was even present. Two factors would emerge from a reading of the aforesaid statements - one being, the basement of the building was not a place of public view and two, only persons who claim to be present were the complainant C.W.-1 and other employees of Sri

Jayakumar R. Nair or friends of CW-1. Therefore, hurling of abuses is clearly not in a place of public view or a public place for the aforesaid provisions of the Act to be get attracted in the case at hand. Reference being made to the judgment of the Apex Court in the case of Hitesh Verma V. State of Uttarakhand in the circumstances becomes apposite. The Apex Court has interpreted the very provision that is now invoked against the petitioner and held what would it mean to be a place of public view or a public place. The Apex Court has held as follows:

"11. It may be stated that the charge-sheet filed is for an offence under Section 3(1)(x) of the Act. The said section stands substituted by Act 1 of 2016 w.e.f. 26.1.2016. The substituted corresponding provision is Section 3(1)(r) which reads as under:

"3.(1)(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;"

12. The basic ingredients of the offence under Section 3(1)(r) of the Act can be classified as "(1) intentionally insults or

intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe and (2) in any place within public view".

13. The offence under Section 3(1)(r) of the Act would indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The (2020)10 SCC 710 assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that

Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste.

14. Another key ingredient of the provision is insult or intimidation in "any place within public view". What is to be regarded as "place in public view" had come up for consideration before this Court in the judgment reported as Swaran Singh v. State [Swaran Singh v. State, (2008) 8 SCC 435: (2008) 3 SCC (Cri) 527]. The Court had drawn distinction between the expression "public place" and "in any place within public view". It was held that if an offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, then the lawn would certainly be a place within the public view. On the contrary, if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then it would not be an offence since it is not

in the public view (sic) [Ed.: This sentence appears to be contrary to what is stated below in the extract from Swaran Singh, (2008) 8 SCC 435, at p. 736d-e, and in the application of this principle in para 15, below: "Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view."]. The Court held as under: (SCC pp. 443-44, para 28) "28. It has been alleged in the FIR that Vinod Nagar, the first informant, was insulted by Appellants 2 and 3 (by calling him a "chamar") when he stood near the car which was parked at the gate of the premises. In our opinion, this was certainly a place within public view, since the gate of a house is certainly a place within public view. It could have been a different matter had the alleged offence been committed inside a building, and also was not in the public view. However, if the offence is committed outside the building e.g. in a lawn outside a house, and the lawn can be seen by someone from the road or lane outside the boundary wall, the lawn would certainly be a place within

the public view. Also, even if the remark is made inside a building, but some members of the public are there (not merely relatives or friends) then also it would be an offence since it is in the public view. We must, therefore, not confuse the expression "place within public view" with the expression "public place". A place can be a private place but yet within the public view. On the other hand, a public place would ordinarily mean a place which is owned or leased by the Government or the municipality (or other local body) or gaon sabha or an instrumentality of the State, and not by private persons or private bodies."
(emphasis in original)

15. As per the FIR, the allegations of abusing the informant were within the four walls of her building. It is not the case of the informant that there was any member of the public (not merely relatives or friends) at the time of the incident in the house. Therefore, the basic ingredient that the words were uttered "in any place within public view" is not made out. In the list of witnesses appended to the charge-sheet, certain witnesses are named but it could not be said that

those were the persons present within the four walls of the building. The offence is alleged to have taken place within the four walls of the building. Therefore, in view of the judgment of this Court in Swaran Singh [Swaran Singh v. State, (2008) 8 SCC 435: (2008) 3 SCC (Cri) 527], it cannot be said to be a place within public view as none was said to be present within the four walls of the building as per the FIR and/or charge-sheet.

... ..

18. Therefore, offence under the Act is not established merely on the fact that the informant is a member of Scheduled Caste unless there is an intention to humiliate a member of Scheduled Caste or Scheduled Tribe for the reason that the victim belongs to such caste. In the present case, the parties are litigating over possession of the land. The allegation of hurling of abuses is against a person who claims title over the property. If such person happens to be a Scheduled Caste, the offence under Section 3(1) (r) of the Act is not made out.

... ..

21. In Gorige Pentaiah [Gorige Pentaiah v. State of A.P., (2008) 12 SCC 531: (2009) 1 SCC (Cri) 446], one of the arguments raised

was non-disclosure of the caste of the accused but the facts were almost similar as there was civil dispute between parties pending and the allegation was that the accused has called abuses in the name of the caste of the victim. The High Court herein has misread the judgment of this Court in Ashabai Machindra Adhagale [Ashabai Machindra Adhagale v. State of Maharashtra, (2009) 3 SCC 789: (2009) 2 SCC (Cri) 20] as it was not a case about the caste of the victim but the fact that the accused was belonging to upper caste was not mentioned in the FIR. The High Court of Bombay had quashed the proceedings for the reason that the caste of the accused was not mentioned in the FIR, therefore, the offence under Section 3(1) (xi) of the Act is not made out. In an appeal against the decision of the Bombay High Court, this Court held that this will be the matter of investigation as to whether the accused either belongs to or does not belong to Scheduled Caste or Scheduled Tribe. Therefore, the High Court erred in law to dismiss the quashing petition relying upon later larger Bench judgment."

(Emphasis supplied)

The Apex Court, in the afore-quoted judgment, has also considered the squabble between the parties which could have led to registration of the crime. The facts therein are akin to the facts in the case at hand. Sri Jayakumar R.Nair wanting to shoot the shoulder of his employee - CW-1 for the act of the petitioner having registered a suit against Sri Jayakumar R.Nair and also secured an interim order of injunction leading to registration of the crime cannot be brushed aside as it demonstrates a clear link in the chain of events. Therefore, the registration of crime itself suffers from want of bona fides.

9. The aforementioned is the analysis of invocation of the provisions of the Act. Offences under the IPC are also invoked in the case at hand which would become punishable under Sections 504, 506 and 323 of the IPC. For an offence punishable under Section 323 IPC there should be hurt caused in the squabble. A perusal at the records would reveal that the wound certificate shows a simple scratch mark on the fore-arm and another scratch mark on the chest. Bleeding is not what is indicated. Therefore, simple scratch marks cannot become

offence under Section 323 of the IPC. Insofar as Sections 504 and 506 of the IPC are concerned, they are clearly an offshoot of the allegations made under the Act. Therefore, none of the offences under Sections 3(1)(r), 3(1)(s) or Section 3(2)(va) can be driven home in the case at hand as they are all shrouded with the act of 8th defendant seeking to wreck vengeance against the petitioner for having registered the suit. Therefore, none of the offences alleged are sustainable in the peculiar facts of the case at hand.

10. Reference being made to another judgment of the Apex Court which bears consideration in Hitesh Verma's case (supra) in the case of GORIGE PENTIAIAH v. STATE OF A.P.2 is apposite wherein the Apex Court holds as under:

"5. Learned counsel appearing for the appellant submitted that even if all the allegations incorporated in the complaint are taken as true, even then, no offence is made out under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "the Act") and

under Sections 447, 427, 506 of the Penal Code, 1860. As far as Section 3(1)(x) of the Act is concerned, it reads as under:

"3. Punishments for offences of atrocities.--(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe,--

*(i)-(ix)****

(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;"

... ..

7. Similarly, we find that the ingredients of Section 506 of the Penal Code are totally absent in the (2008) 12 SCC 531 complaint. In the complaint it is not even mentioned that the accused had intimidated or threatened the complainant or anyone else. In absence of basic ingredients of the section in the complaint, no case under Section 506 IPC can be sustained. Section 506 reads as under:

"506. Punishment for criminal intimidation.-- Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either

description for a term which may extend to two years, or with fine, or with both;"

8. "Criminal intimidation" has been defined in Section 503 which reads as under:

"503. Criminal intimidation.-- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of anyone in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threats, commits criminal intimidation."

12. In the light of the afore-quoted facts, when the basic ingredients of the offence are missing, then permitting such proceedings to continue and to compel the petitioner to face the rigmarole of criminal trial would be totally unjustified, leading to abuse of the process of law. In the teeth of the aforesaid facts and analysis, permitting further proceedings to

continue would degenerate into harassment and result in miscarriage of justice.

75. Thus taking cue from the above case I do not see any case being made out against the accused persons either under the provisions of Indian Penal Code or under the provisions of Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act.

76. In the overreach of Police in investigation real culprit P.W.-13 who is the person for whom the squabble appeared to have occurred has the last laugh of not being accountable to the Society against which P.W.-13 committed crime of inciting, squabble between two peaceful families and insulting a married woman. The question also rises did police find short of provisions under Indian Penal Code that P.W.-13 could not have been brought to Justice.

77. Thus the partisan acts of police ultimately fail to prove any offence against the accused persons who had had natural consequences of sequential acts of the

P.W.-13 of tormenting P.W.-14 and this squabble that is magnified into crime and hued with Atrocity against Caste. I reiterate such blatant abused of Caste oriented penal provision that will only dissipate the intention and implementation of enactment and its objectives buried into history of such malafide invoking.

78. Therefore finding no offence or guilt otherwise in accused I proceed to hold the point for consideration:-

- | | | |
|----------------|---|--------------------------------|
| POINT No. I | : | In the negative |
| POINT No. II | : | In the negative |
| POINT No. III | : | In the negative |
| POINT No. IV | : | In the negative |
| POINT No. V | : | In the negative |
| POINT No. VI | : | In the negative |
| POINT No. VII | : | In the negative |
| POINT No. VIII | : | In the negative |
| POINT No. IX | : | In the negative |
| POINT No. X | : | In the negative |
| POINT No. XI | : | as per the following Judgement |

JUDGEMENT

- I. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence punishable under Section 363 of Indian Penal Code?
- II. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence punishable under Section 324 of Indian Penal Code?
- III. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence punishable Section 143 of Indian Penal Code?
- IV. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove

beyond reasonable doubts the offence punishable under Section 147 of Indian penal Code?

V. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence punishable under Section 148 of Indian penal Code?

VI. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence punishable under Section 504 of Indian penal Code read with Section 149 of Indian Penal Code?

VII. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence punishable Section 506 of Indian Penal

Code read with Section 149 of Indian Penal Code?

VIII. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence punishable Section 3[1][r] of Scheduled Caste and Scheduled Tribe penal Code read with Section 149 of Indian Penal Code?

IX. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence punishable Section 3[1][s] of Scheduled Caste and Scheduled Tribe penal Code read with Section 149 of Indian Penal Code?

X. Exercising my powers under Section 235[1] of the Code of Criminal Procedure I hereby acquit all the eight accused as the prosecution has failed to prove beyond reasonable doubts the offence

punishable Section 3[2][va] of Scheduled Caste and Scheduled Tribe penal Code read with Section 149 of Indian Penal Code?

- XI. Exercising my powers under Section 439[2] of the Code of Criminal Procedure the Accused, stands liberated absolutely wherein the accused was accorded interim bail pending disposal of the Trial.
- XII. Exercising my Powers under Section 446-A of Code of Criminal Procedure, it is hereby Ordered that the Personal Bonds and Bonds of Surety so executed for interim enlargement of accused persons on Bail except the Personal Bonds and Bonds of Surety so executed as per the Order on Section 437-A shall stand cancelled forthwith. Consequently, any entries made in any corresponding records of such surety documents shall be removed by such authorities who have made such entry of such person being Surety.
- XIII. Exercising discretion conferred upon this Court under Section 357-A of the Code of Criminal Procedure there shall be no

compensation as victim has not proved
the case against accused.

XIV. Exercising my Powers under Chapter VIII
Rule 7[viii] of Karnataka Criminal Rules of
Practice, a free certified copy of this
Judgement shall be furnished to the
Learned Exclusive Public Prosecutor.

[Word processed by me on the computer in my home office and
corrected, and Judgement pronounced by me in the open Court under
Seal and Signature of this Court on this the 31 st day of July 2026.]

SAVITHA KUMARI. N.
III ADDL. SESSIONS JUDGE
THE EXCLUSIVE SPECIAL COURT
Constituted Offence Under
Scheduled Castes & Scheduled Tribes
[Prevention Of Atrocities] Act.
Belagavi.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF
PROSECUTION

Sl No	In Charge Sheet	In Trial	Name	Date
1	C.W.-01	P.W.-01	Shri. Sunil Gadivaddar	26-09-2025
2	C.W.-02	P.W.-02	Shri. Mayappa Ajjanagi	26-09-2025
3	C.W.-03	P.W.-03	Shri. Mahaveer Veeragouda	26-09-2025
4	C.W.-06	P.W.-04	Shri. Basavaraj Kankanwadi	20-11-2025
5	C.W.-04	P.W.-05	Shri. Manjunath Ambaji	05-12-2025
6	C.W.-05	P.W.-06	Shri. Siddappa Savadi	05-12-2025
7	C.W.-12	P.W.-07	Shri. Raju Gadivaddar	11-12-2025
8	C.W.-09	P.W.-08	Shri. Sabu Gadivaddar	11-12-2025
9	C.W.-10	P.W.-09	Shri. Ashok Gadivaddar	11-12-2025
10	C.W.-13	P.W.-10	Shri. Mallappa @ Mallesh Madar	02-03-2026
11	C.W.-14	P.W.-11	Shri. Hanamant Ardhavur	02-03-2026
12	C.W.-15	P.W.-12	Shri. Sabu Mali	02-03-2026
13	C.W.-08	P.W.-13	Shri. Suresh Gadivaddar	13-03-2026
14	C.W.-17	P.W.-14	Smt. Rajshree Basinge	13-03-2026
15	C.W.-16	P.W.-15	Smt. Champavva Karajagi	13-03-2026
16	C.W.-28	P.W.-16	Dr. Guru Siddappa Mareyallappanavar	02-04-2026
17	C.W.-29	P.W.-17	Dr. Chandrakant Dole Shetty	02-04-2026
18	C.W.-33	P.W.-18	Shri. Shripad Jalde	06-06-2026
19	C.W.-32	P.W.-19	Shri. Shivaji Talawar	11-06-2026

LIST EXHIBITS MARKED ON BEHALF OF PROSECUTION

Exhibit No	Description	Marked Through	Date
Ex. P- 1	Complaint	P.W.-01	26-09-2025
Ex. P-1[a]	Signature of P.W-01	P.W.-01	26-09-2025
Ex. P- 2	Bond	P.W.-02	26-09-2025
Ex. P- 3 to Ex. P-5	Three Photographs	P.W.-01	26-09-2025
Ex. P- 6	Spot Mahazar	P.W.-02	26-09-2025
Ex. P.- 6[a]	Signature of P.W.-02	P.W.-02	26-09-2025
Ex.P.- 6[b]	Signature of P.W.-03		
Ex. P-7	Mahazar	P.W.-02	26-09-2025
Ex. P- 7[a]	Signature of P.W.-02	P.W.-02	26-09-2025
Ex. P- 7[b]	Signature of P.W.-03	P.W.-03	26-09-2025
Ex. P- 8	Notice	P.W.-03	26-09-2025
Ex. P- 8[a]	Signature of P.W.-03	P.W.-03	26-09-2025
Ex. P- 9	Mahazar	P.W.-04	20-11-2025
Ex. P- 9[a]	Signature of P.W.-04	P.W.-04	20-11-2025
Ex. P- 10 & Ex. P- 11	Two Photographs of P.W.-04	P.W.-04	20-11-2025
Ex. P- 12	Seizure Mahazar	P.W.-05	05-12-2025
Ex.P-12[a]	Signature of P.W.-05	P.W.-05	05-12-2025
Ex. P-12[b]	Signature of P.W.-06	P.W.-06	05-12-2025
Ex. P-13 to Ex. P.-19	7 Photographs of P.W.-05	P.W.-05	05-12-2025
Ex. P- 20	Police Notice	P.W.-05	05-12-2025
Ex. P- 20[a]	Signature of P.W.-05	P.W.-05	05-12-2025
Ex. P- 21	Police Notice	P.W.-06	05-12-2025

Ex. P- 21[b]	Signature of P.W.-06	P.W.-06	05-12-2025
Ex. P- 22	Portion of statement of P.W.-10	P.W.-10	02-03-2026
Ex. P- 23	Portion of statement of P.W.-11	P.W.-10	02-03-2026
Ex. P- 24	Portion of statement of P.W.-10	P.W.-11	02-03-2026
Ex. P- 24	Portion of statement of P.W.-11	P.W.-11	02-03-2026
Ex. P- 25	Portion of statement of P.W.-12	P.W.-12	02-03-2026
Ex. P- 26	Portion of statement of P.W.-15	P.W.-15	13-03-2026
Ex. P- 27	Wound Certificate	P.W.-16	02-04-2026
Ex. P- 27[a]	Signature of P.W.-16	P.W.-16	02-04-2026
Ex. P- 28	Wound Certificate	P.W.-17	02-04-2026
Ex. P- 28[a]	Signature of P.W.-17	P.W.-17	02-04-2026
Ex. P- 29	Caste Certificate	By Consent	02-04-2026
Ex. P- 30	Order by Superintendent of Police	P.W.-18	06-06-2026
Ex. P- 31	Report	P.W.-18	06-06-2026
Ex. P- 31[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 32	Report	P.W.-18	06-06-2026
Ex. P-32[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 33	Voluntary statement of Accused	P.W.-18	06-06-2026
Ex.P.-33[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 34	P. F	P.W.-18	06-06-2026
Ex. P-34[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 35	Hand Sketch of	P.W.-18	06-06-2026

	P.W.-18		
Ex. P- 35[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 36	Letter	P.W.-18	06-06-2026
Ex. P- 36[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 37	VPC Extract of P.W.-18	P.W.-18	06-06-2026
Ex. P- 37[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 38	65[B] Certificate	P.W.-18	06-06-2026
Ex. P- 38[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 39	Letter	P.W.-18	06-06-2026
Ex. P- 39[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 40	Medical record	P.W.-18	06-06-2026
Ex. P-40[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 41	Letter	P.W.-18	06-06-2026
Ex. P- 41[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 42	Letter	P.W.-18	06-06-2026
Ex. P- 42[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 43	Hand Sketch of P.W.-18	P.W.-18	06-06-2026
Ex. P- 43[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 44	65[B] Certificate	P.W.-18	06-06-2026
Ex. P- 44[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 45	65[B] Certificate	P.W.-18	06-06-2026
Ex. P- 45[a]	Signature of P.W.-18	P.W.-18	06-06-2026
Ex. P- 46	First Investigation Report	P.W.-19	11-06-2026
Ex. P- 46[a]	Signature of P.W.-19	P.W.-19	11-06-2026

**LIST EXHIBITS MATERIAL OBJECTS MARKED ON BEHALF
OF PROSECUTION**

SL. No	Description	Marked Through	Date
1	Motor Cycle	P.W.-1	26-09-2025
2	One Iron Ragol	P.W.-1	26-09-2025
3	89 inches Pump set Motor Cable.	P.W.-1	26-09-2025
4	94 inches Pump set Motor Cable.	P.W.-1	26-09-2025

**LIST OF WITNESSES EXAMINED ON BEHALF OF
ACCUSED IN DEFENCE**

Sl No	Charge Sheet	In Trial	Name	Date
0	NIL	NIL	NIL	NIL

LIST OF EXHIBITS OF ACCUSED IN DEFENCE

Exhibit No	Description	Marked Through	Date
0	NIL	NIL	NIL

SAVITHA KUMARI. N.
III ADDL. SESSIONS JUDGE
The Exclusive Special Court
Constituted Offence Under
Scheduled Caste & Scheduled Tribe
[Prevention Of Atrocities] Act.
BELAGAVI.