

KABI010020612024



**IN THE SPECIAL COURT FOR ATROCITY OFFENCES AND
I-ADDITIONAL SESSIONS JUDGE AT BALLARI.**

DATED THIS 22ND DAY OF AUGUST, 2026

: PRESENT :

SHRI. H.A. MOHAN., B.A.L., LL.B.
Special Judge for Atrocity offences &
I-Addl. Sessions Judge, Ballari.

SPECIAL CASE No.510/2024

COMPLAINANT : -

The State by Dy.S.P,
Ballari City Sub-Division, Ballari.
(Cowlbazar Police station)

(By Public Prosecutor, Ballari)

Vs.

ACCUSED : -

1. Nomesh
S/o Adeppa,
Age: 43 Years,
2. Smt. Lakshmi
W/o Nomesh,
Age: 43 Years,
Occ: Housewife.

3. Sri Sridhar
S/o Nomesh,
Aged: 25 Years

All are R/o D. No.165, W. No.31, 3rd Cross,
Near SMPS School, Ramanjineya Nagara,
Ballari.

(By Shri. G.V., Advocate)

Date of offence	08.07.2023
Date of reporting of offence	30.03.2024
Name of the informant	Smt. Asha Sumitha Bai.
Date of commencement of recording of evidence.	05.12.2025
Date of closing of evidence	10.07.2026
Offence/s complained off	U/Secs.323, 448, 504 and 506 R/w Sec.34 of I.P.C. and u/Secs.3(1)(r), 3(1)(s) and 3(2)(v-a) of SC and ST (PREVENTION OF ATROCITIES) Act, 1989.
Opinion of the Judge	The Accused Nos.1 to 3 found not guilty.

J U D G M E N T

This case emanates from the charge sheet submitted by the Dy.S.P., Ballari City Sub-Division, Ballari, for the offences punishable u/Sections 323, 448, 504 and 506 R/w Sec.34 of I.P.C. and u/Secs.3(1)(r), 3(1)(s) and 3(2)(v-a)

of SC and ST (PREVENTION OF ATROCITIES) Act, 1989 against the accused Nos.1 to 3.

2. The case of prosecution in brief is that, the C.W.4 and her family members are residing in Ramanjineya nagar layout and the accused No.1 is the neighbour. When the accused No.1, after demolishing the old house, started to putting up new construction, he had demolished the compound wall of C.W.4, by encroaching the property and he was constructing the house and in that connection, C.W.4 had filed a suit in O.S. No.261/2023 and for that reason, on 8.7.2023 at about 3:00 P.M., the accused Nos.1 to 3 came and demolished the compound wall and when C.Ws.4 to 6 were there, the accused Nos.1 to 3 abused them in filthy language and with reference to their caste by calling them as “ಲೇ ಕಂತ್ರಿ ಸೂಳೆಯರೇ, ಕಮ್ಮಿ ಜಾತಿಗೆ ಸೇರಿದ ಲಂಭಾಣಿ ಜಾತಿಗೆ ಸೇರಿದ ಸೂಳೆಯರೇ” and also assaulted them with their hands and legs and provoked them to commit breach of peace and threatened to kill them by causing simple injuries and thereby, the accused persons have committed the aforesaid offences.

3. After submitting the charge sheet, my learned predecessor has taken cognizance of the offences and issued summons to accused Nos.1 to 3. They have appeared along with their advocate and they have been released on bail.

4. After following due procedure, my learned predecessor has framed the charges against the accused for the aforesaid offences, by reading over the same in Kannada language known to them. The accused Nos.1 to 3 have pleaded not guilty and claimed to be tried. Hence, the case was posted for trial.

5. In order to prove the charges, the prosecution has examined C.Ws.1 to 5, 13, 6 to 9, 15, 12, 18 and 17 as P.W.1 to P.W.14 and got marked 22 documents as Exs.P.1 to P.22. C.Ws.10, 14 and 16 are given up.

6. Thereafter, the statement of accused Nos.1 to 3, as contemplated u/Section 313 of Cr.P.C., have been recorded, by putting the incriminating evidence available

against them. The answers given by the accused are noted in their statement.

7. The accused Nos.1 to 3 have not chosen to lead evidence nor submitted their written statement.

8. Heard the learned Public Prosecutor for State and the learned counsel for the accused Nos.1 to 3.

9. The following points that arise for my consideration:-

1. *Whether the prosecution proves beyond all reasonable doubt that, on 8.7.2023 at about 3:00 P.M., at Ranjineya nagar, the accused Nos.1 to 3 in furtherance of their common intention, in connection with Civil Suit filed by C.W.4, demolished the compound wall of C.W.4, by committing house trespass and thereby committed the offence punishable u/Sec.448 R/w Sec.34 of I.P.C.?*
2. *Whether the prosecution proves beyond all reasonable doubt that, on the above said date, time and place, in*

furtherance of their common intention the accused Nos.1 to 3 have intentionally insulted C.Ws.4 and 5 by abusing them in filthy language and provoked them to commit breach of peace and thereby committed the offence punishable u/Sec.504 R/w Sec.34 of I.P.C.?

3. *Whether the prosecution proves beyond all reasonable doubt that, on the above said date, time and place, in furtherance of their common intention, the accused Nos.1 to 3 have assaulted C.Ws.4 and 5 with their hands and caused simple hurt and thereby committed the offence punishable u/Sec.323 R/w Sec.34 of I.P.C.?*
4. *Whether the prosecution proves beyond all reasonable doubt that, on the above said date, time and place, in furtherance of their common intention, the accused Nos.1 to 3 have threatened C.Ws.4 and 5 to kill and thereby committed the offence punishable u/Sec.506 R/w Sec.34 of I.P.C.?*

5. *Whether the prosecution proves beyond all reasonable doubt that on the above date, time and place, in furtherance of their common intention, the accused Nos.1 to 3 knowing fully well that the C.Ws.4 and 5 belonging to Schedule Caste/Tribe have intentionally insulted them by abusing with reference to their caste by calling them as “ಲಂಭಾಣಿ ಜಾತಿಗೆ ಸೇರಿದ ಕಂತ್ರಿ ಸೂಳೆಯರೇ” in a public view and thereby committed the offence punishable u/Sec.3(1)(r), 3(1)(s) and 3(2)(v-a) SC and ST (PREVENTION OF ATROCITIES) Act, 1989?*

6. *What order?*

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

Point Nos.1 to 5 :- In the Negative.

Point No.6 :- As per final order, for the following:

REASONS

11. **Point Nos.1 to 5 :-** These points are interlinked to each other and as such, they are taken up together for discussion, to avoid repetition of facts.

12. After having heard the learned Public prosecutor and learned counsel for accused Nos.1 to 3, I have carefully perused the records available on record.

13. First and foremost lacuna in the case is, there is inordinate delay in lodging the complaint as per Ex.P.1 by C.W.1. The alleged incident was taken place on 8.7.2023 at 3:00 P.M., but this complaint was lodged on 30.3.2024 i.e., after lapse of more than eight months. No explanation has been offered with regard to delay. Even during the course of evidence, P.W.1 could not give satisfactory answer with regard to delay.

14. Spot panchanama as per Ex.P.2 was drawn on 31.3.2024. But as per the evidence of witnesses and the I.O., the photograph as per Ex.P.3 was taken at a different place. The compound wall is not visible in the said photograph. Even in Ex.P.2, there is no whisper as to demolition of compound wall. It is not stated either in Ex.P.1 or in Ex.P.2 as to the effect that, after demolishing of the compound wall on 8.7.2023, the same was

reconstructed by C.W.1. Therefore, the entire case becomes doubtful and it must have been filed after thought.

15. As per Exs.P.6 and P.7, C.Ws.4 and 5 went to hospital on 8.7.2023 at about 3:15 P.M., and taken treatment. There were no visible or external injuries found on their body. But, there is no MLC. No whisper as to who assault them. Therefore, it also creates serious doubt with regard to case filed by C.W.1. The sketch as per Ex.P.12 discloses that the alleged incident was taken place within compound wall of C.W.1. But, there is no mention made with regard to that aspect in Ex.P.2. Admittedly, the signatures of police and the owner of the building have not been taken by the Engineer, who has been examined as P.W.12. He has admitted that, he has not shown the boundaries to the property where the alleged incident was taken place. He has also not mentioned as to on which date, he has visited the spot. He has not obtained the signatures of owner of the building and neighbours. Therefore, it is clear that, this witness has not properly

drawn the sketch and in accordance with law. His approach is very casual. Hence, the sketch cannot be accepted as evidence. Hence, it becomes fatal to the case of prosecution.

16. Independent witnesses, though supported the case of prosecution to some extent, but since there is inordinate delay in lodging the complaint and since the mahazar was not drawn at the alleged place and the photograph discloses the other place, the case of prosecution becomes doubtful. In a doubtful case, the evidence of prosecution cannot be based to prove the charges.

17. Further, the I.O. has failed to take the proper explanation from the complainant and other witnesses with regard to delay in lodging the complaint. He has failed to draw the panchanama at a relevant place. Therefore, I hold that, the evidence let in by the prosecution witnesses, since doubtful and the delay has not explained, the same cannot be based to prove the charges leveled against the

accused. The very important aspect of demolition of compound wall has not been proved. Therefore, keeping in mind of the Civil suit, the complainant must have thought of filing complaint after lapse of eight months. The I.O. has failed to collect the material in connection with Civil suit. He has no answer to the suggestion that, the Civil suit has been dismissed. Neighbouring witnesses have not been examined. Therefore, the case of prosecution cannot be believed and accepted. Hence, as rightly pointed out by the learned counsel for the accused, the prosecution has failed to prove the guilt of the accused by placing cogent, convincing and satisfactory evidence and the same is accepted. In view of the above said discussion, I answer above points in the **Negative**.

18. **Point No.6** :- In the result, I proceed to pass the following :

ORDER

Acting U/Section 235(1) of Cr.P.C., the accused Nos.1 to 3 are hereby acquitted of offences punishable u/Sections 323, 448, 504 and 506 R/w Sec.34 of I.P.C. and

u/Secs.3(1)(r), 3(1)(s) and 3(2)(v-a) of SC and ST (PREVENTION OF ATROCITIES) Act, 1989.

The bail bond of accused Nos.1 to 3 and that of their sureties shall be continued for a period of six months or till filling of appeal, if any.

[Dictated to the Stenographer Grade-I transcribed and computerized by him, corrected, initialed and then pronounced by me in the open Court on this the **22nd day of August, 2026**]

(H.A. MOHAN),
Spl. Judge and I-Addl. Sessions Judge
Ballari.

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ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF PROSECUTION :

- P.W.1. Smt. Asha Sumita Bai.
- P.W.2. Krushna Nayak.
- P.W.3. Srinivasulu.
- P.W.4. Smt. Rukmuni Bai.
- P.W.5. Smt. Sujatha Bai.
- P.W.6. G. Yugendra, C.M.O., VIMS, Ballari.
- P.W.7. David Raj.
- P.W.8. Smt. Chamundeshwari.
- P.W.9. Smt. Saraswathi.
- P.W.10. Mallikarjuna.
- P.W.11. Pampa Nayak.
- P.W.12. Vijay Kumar.

P.W.13. Chandrakanth.

P.W.14. Smt. Sharada PSI, Netaji Nagar P.S., Raichur.

LIST OF DOCUMENTS MARKED ON BEHALF OF PROSECUTION :

- Ex.P.1. Complaint.
- 1(a). Signature of P.W.1.
- 1(b). Signature of P.W.14.
- Ex.P.2. Spot panchanama.
- 2(a). Signature of P.W.1.
- Ex.P.3. Photograph.
- Ex.P.4. Statement of Srinivasulu.
- Ex.P.5. Police notice issued to Srinivasulu.
- Ex.P.6. Wound certificate.
- 6(a). Signature of P.W.6.
- Ex.P.7. Wound certificate.
- 7(a). Signature of P.W.6.
- Ex.P.8. Statement of P.W.10.
- Ex.P.9. C.D.
- Ex.P.10. Certificate u/Sec.65 of Indian Evidence Act.
- 10(a). Signature of P.W.11.
- Ex.P.11. Letter of I.O.
- Ex.P.12. Sketch.
- Ex.P.13. Letter of Asst. Engineer, PWD, Ballari.
- Ex.P.14. Order of S.P., Ballari.
- Ex.P.15. Rough Sketch.
- 15(a). Signature of P.W.13.
- Ex.P.15(A). Requisition of I.O., to the 4th Civil Judge & JMFC, Ballari.
- Ex.P.16. Letter to the Tahsildar, Ballari by the I.O.
- 16(a). Signature of P.W.13.
- Ex.P.17. Report of Tahsildar.
- Ex.P.18. Two Reports issued by the Revenue Inspector, Ballari.
- Ex.P.19. Two Caste certificates.
- Ex.P.20. Letter to the Commissioner, City Corporation, Ballari.
- Ex.P.21. Letter of Commissioner, City Corporation,

Ballari.
Exs.P.22. F.I.R.
Ex.P.22(a). Signature of P.W.14.

**MATERIAL OBJECTS MARKED ON BEHALF OF
PROSECUTION :**

NIL

**LIST OF WITNESSES EXAMINED ON BEHALF OF
DEFENSE :**

NIL

**LIST OF DOCUMENTS MARKED ON BEHALF OF
DEFENSE :**

NIL

Spl. Judge and I-Addl Sessions Judge,
Ballari.