

KABI010044222021



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

DATED THIS 17TH 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.1394/2021

COMPLAINANT : -

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

(By Spl. Public Prosecutor, Ballari)

Vs.

ACCUSED : -

1. Abdul @ Appi
S/o Honnursab,
Age : 25 Years,
Occ: Driver of Auto Rickshaw,
R/o Near KEB Circle, Near Karthik Bar,
Basaveshwara Nagar, Ballari.
2. Gajini Mahammed
S/o Mohammed,
Age: 21 Years, Occ: Labour,

R/o Near KEB Circle, Near Karthik Bar,
Basaveshwara Nagar, Ballari.

3. Chidananda @ Sidda
S/o Kumaraswamy,
Age: 21 Years, Occ: Labour,
R/o W. No.23, Near Peeraladevara Gudi,
Siddarth Colony, Ballari.
4. Gudduduru Veeresh
S/o Kumaraswamy,
Age: 27 Years, Occ: Labour,
R/o Near Peeraladevara Gudi,
Siddarth Colony, Ballari.

**(A-1 & 2 by Sri. P. Rama Brahmam.,
Advocate)**

**(A-3 & 4 by Sri. Sudarsana Raju
Pasuparthi., Advocate)**

Date of offence	12.09.2021
Date of reporting of offence	13.09.2021
Name of the informant	Sri. Anil Kumar T
Date of commencement of recording of evidence.	22.08.2024
Date of closing of evidence	30.01.2026
Offence/s complained off	U/Secs.504, 307, 323, 324 R/w Section 34 of I.P.C. and u/Secs.3(1)(r), 3(1)(s), 3(2)(V), 3(2)(v-a) of SC and ST (PREVENTION OF ATROCITIES) Act, 1989.
Opinion of the Judge	The Accused Nos.1 to 4 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 504, 307, 323, 324 R/w Section 34 of I.P.C. and u/Secs.3(1)(r), 3(1)(s), 3(2)(V), 3(2)(v-a) of SC and ST (PREVENTION OF ATROCITIES) Act, 1989 against the accused Nos.1 to 4.

2. The case of prosecution in brief is that, in connection with processions of Ganesh Idol during September, 2021, an incident was taken place when accused No.1 said to have asked the witness Sri. Koushik to take the Ganesh Idol in procession and in that connection, on 12.09.2021 at about 10:00 P.M., the accused No.1 along with his friends had assaulted Sri. Koushik. Then, the elder brother of complainant had questioned the accused No.1 as to why he assaulted Koushik. For that, the accused No.1 abused him with filthy language and then, when the complainant asked accused No.1 as to why he was abusing, then the accused No.1 abused him with reference to his caste by calling him

as “ಲೇ ವಾಲ್ಮೀಕಿ ಸೂಳೇ ಮಕ್ಕಳೇ” and he will kill him and accordingly, after sometime, he came along with other accused persons in a Tata Ace vehicle bearing Regn. No.KA-34/A-2341 by holding ballies clubs and abused the complainant in filthy language and telling that he would kill him, he assaulted C.W.1 with ballies club and when C.W.1 turned his head, the club hit to his left eyebrow portion and caused bleeding injury and then, Mareenna came to pacify, but the accused also assaulted him with club on his right head and caused bleeding injuries. Thereafter, the other accused persons have also assaulted Mareenna on his right eye portion and caused injuries. They have intentionally insulted with reference to their caste and then, one Ramesh, Roshith, Santosh and Sunesh came and pacified the quarrel and took him to VIMS hospital and provided treatment and thereby, the accused persons have committed the aforesaid offences.

3. After submission of charge sheet, it was noticed that the Accused Nos.1 and 2 were in Judicial custody. Thereafter, they have been released on bail. Thereafter, the

accused Nos.3 and 4 have also been released on regular bail, since they were arrested and produced before the Court.

4. Cognizance for the aforesaid offences was taken and issued warrants. The accused have appeared along with their advocate and they have been released on bail.

5. My learned Predecessor, after following due procedure has framed the charges against the accused for the aforesaid offences by reading over the same. The accused Nos.1 to 4 have pleaded not guilty and claimed to be tried. Hence, the case was posted for trial.

6. In order to prove the charges, the prosecution has examined the C.Ws.1, 6, 8, 2, 7, 4, 9, 11, 18, 12, 13, 17, 19, 27, 22, 23 and 28 as P.Ws.1 to 17, got marked 34 documents as Exs.P.1 to P.34 and got identified M.O.1 and M.O.2. The C.Ws.3, 5, 10 and other witnesses are given up/dropped.

7. Thereafter, the statement of accused Nos.1 to 4, 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.

8. The accused Nos.1 to 4 have not chosen to submit their written statement nor adduced their defense evidence.

9. Heard the learned Spl. Public Prosecutor for State and the learned counsel for the accused Nos.1 to 4.

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

1. *Whether the prosecution proves beyond all reasonable doubt that, in connection with Ganesh Idol procession, on 12.09.2021 at about 4:00 P.M., the accused No.1 asked C.W.1 to bring Ganesh Idol procession in his street and when C.W.7 did not fulfill the desire of accused No.1 and immersed the Ganesh Idol, at about 10:00 P.M.,*

when C.W.1 was near Ganesh Idol, the accused No.1 went there and asked C.W.7 as to why he did not bring Ganesh Idol in his street and assaulted him and again accused No.1 came along with accused Nos.2 to 4 and started abusing C.Ws.1 and 8 in filthy language and provoked them to commit breach of peace and thereby committed the offence punishable u/Section 504 R/w Sec.34 of I.P.C.?

- 2. Whether the prosecution proves beyond all reasonable doubt that, in connection with the said incident, on the same day, time and place and in furtherance of their common intention, the accused Nos.3 and 4 have assaulted C.Ws.1 and 6 with their hands and caused simple hurt and thereby committed the offence punishable u/Section 323 R/w Sec.34 of I.P.C.*
- 3. Whether the prosecution proves beyond all reasonable doubt that, on the above said day, time and place and in furtherance of their common intention,*

the accused No.2 has assaulted C.W.6 on his right eyebrow with club and caused bleeding injuries and thereby committed the offence punishable u/Section 324 R/w Sec.34 of I.P.C.

4. *Whether the prosecution proves beyond all reasonable doubt that, on the above said day, time and place and in furtherance of their common intention, the accused Nos.2 to 4 along with accused No.1 came in Tata Ace vehicle bearing Regn. No.KA-34/A-2341 along with clubs, with an intention to murder C.W.1 and accordingly, Accused No.1 assaulted C.W.1 and when C.W.1 turned his head, the club hit to the left eyebrow portion and caused injury and the accused Nos.2 to 4 have assisted the accused No.1 in that connection and thereby committed the offence punishable u/Section 307 R/w Sec.34 of I.P.C.?*
5. *Whether the prosecution proves beyond all reasonable doubt that on the above day, time and place, in furtherance of their common intention, knowing fully*

well that C.Ws.1 and 8 belongs to Schedule Tribe, the accused Nos.1 to 4 have intentionally insulted them by abusing them with filthy language and also with reference to their caste calling them as “ವಾಲ್ಮೀಕಿ ಸೂಳೀ ಮಕ್ಕಳೇ” on a public place and within a public view and thereby committed the offence punishable u/Sec.3(1)(r), 3(1)(s), 3(2)(V) and 3(2)(v-a) SC and ST (PREVENTION OF ATROCITIES) Act, 1989?

6. What order?

11. 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

12. **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.

13. After having heard the learned Spl. Public prosecutor and learned counsel for accused Nos.1 to 4, I have carefully perused the entire evidence on record.

14. According to the learned Spl. Public Prosecutor, the complainant and all the material witnesses have supported the case of prosecution. The clubs have been seized at the instance of accused persons. The vehicle was also seized at their instance. The mahazar witnesses have supported the case of prosecution. The evidence of Doctor corroborates the evidence of injured witnesses and the eye witnesses. The I.O. has conducted proper investigation and submitted the charge sheet. Therefore, there is cogent and convincing evidence to prove the charges against the accused. Accordingly, prayed to convict the accused persons.

15. On the other hand, the serious points raised by the learned counsel for accused Sri. P.R.B. is that, the prosecution has failed to prove the case as per the version mentioned in Ex.P.1. Because, according to Ex.P.1, Sri.

Koushik was accused, but he has been cited as witness. But, the said witness has not supported the case of prosecution. Further, one Charan has not been cited as witness. What happened to that Charan has not been explained by the prosecution. That shows that, the case of prosecution is doubtful.

16. In the light of above said arguments, I have perused Ex.P.1 – Complaint. According to this complaint, first incident was taken place in between accused No.1 and Koushik, who has been cited as C.W.7. But, he has not lodged any complaint. Second incident was taken place on the same day after Accused No.1 brought the accused Nos.2 to 4 in a Luggage Auto/Tata Ace vehicle. According to this complaint, there was an intention to murder him. According to this complaint, the accused Nos.2 to 4 have assaulted one Sri. Charan. The specific averments made as to who assaulted whom and what was the nature of injuries caused. But admittedly, Charan has not been cited as witness. He has not come and given evidence stating that he was also present and the accused had

assaulted him. So, it creates doubt with regard to that incident.

17. The evidence of C.W.7, who has been examined as P.W.5 discloses that during 2021, his friends had installed Ganesh Idol. He does not know C.Ws.1, 8, 9 to 11, but he has seen the accused persons. But, he does not know the names of accused. He further deposed that during that period, D.J. Songs were being played, but the same was taken by somebody else. In that regard, the accused talked to him. But, no other incident has taken place and he has not given statement as per Ex.P.9. Even in the cross-examination conducted by the learned Spl. P.P., he has not admitted any suggestions made to him. So, the evidence of this witness does not prove the contents of Ex.P.1.

18. The P.W.1 is the complainant. According to him, the accused No.1 had assaulted C.W.7 and when C.W.8 asked the accused No.1, the accused No.1 abused him, the accused No.1 abused him in filthy language and

with reference to his caste. Then, he went back. After 10 minutes, the accused No.1 came along with accused Nos.2 to 4 in a Tata Ace vehicle and with clubs. They told him that they would kill him. The accused No.1 tried to assault on his head, but he went back, but the club hit to his left eyebrow portion. Then, C.W.6 came to rescue and at that point of time, the accused No.2 assaulted him on his right eyebrow portion. Thereafter, C.Ws.7 to 12 came to pacify. Then, he was taken to VIMS hospital by C.W.6. Thereafter, when he went to police station at 10:40 P.M., the police asked him to come on the next day.

19. He further deposed that on 13.09.2021 at 11:00 A.M., he went to police station to lodge a complaint. He further deposed that even at VIMS hospital, the accused came and abused with reference to his caste and told him that, they would kill him. This portion of the evidence is an improved version and it amounts to omission. Because, no such averment has been made in Ex.P.1 or in his further statement.

20. In the cross-examination he admitted that he was studying Post Graduation in Journalism. His father is auto driver. He was residing in a rented house. He himself got typed the complaint before the Gandhingar police. He has not shown the blood stain to Doctor. Within 10 minutes after reaching the hospital, the Doctor examined him. There is distance of 1½ or 2 K.Ms in between his house and Gandhinagar police. The VIMS hospital is situated at a distance of 05 K.M., from his house. He admitted that, he has not mentioned in Ex.P.1 that when he went to Gandhinagar police station on the night, the police asked him to come on the next day.

21. Witness admitted that the M.Os.1 and 2 like articles will be used for centering purpose. He has denied the other suggestions.

22. So, as per the evidence of this witness, there are improved versions and they amount to omissions. But, the proper explanations have not been given with regard to said omissions. Therefore, they create serious doubt with

regard to manner in which the alleged incident had taken place.

23. P.W.2 is one Mareenna. He has deposed that when he went to Housing Board to see the procession of Ganesh Idol at about 10:30 P.M., all the accused were assaulting C.W.1 and when he tried to pacify the quarrel, the accused assaulted with stick on his right eyebrow and the accused No.1 assaulted on the left eyebrow of C.W.1, the accused Nos.3 and 4 have assaulted with their legs and hands. Thereafter, C.W.8 and his elder brother's son took him to hospital. He has also deposed with regard to abuse made by the accused with reference to his caste. He has identified the accused before the Court.

24. In the cross-examination, he stated that he studied up to 9th Standard. He was owning, own Auto and he was the driver in the said auto. He admitted that every year Ganesh Idol was being installed in KEB Circle. He admitted that public would install the Ganesh Idol in Basaveshwarnagar every year. He admitted that, while

going to VIMS Hospital, they did not visit the police station. He has denied the other suggestions. So, the answer given by this witness, would show that on that day night, they did not visit the police as deposed by P.W.1.

25. P.Ws.3, 7 and 8 are the eyewitnesses as per the case of prosecution. They have supported the case of prosecution in examination-in-chief. Some general suggestions were made in the cross-examination with regard to distance between many places and they have admitted the said suggestions. But, they have denied the suggestion with regard to assault made by the accused on P.Ws.1 and 2.

26. P.W.4 is the witness to the panchanama marked as Ex.P.2. He has deposed that on 13.9.2021, the police had summoned him and drawn the panchanama stating that, there was quarrel pertaining to the Food arranged during Ganesh procession. This is an improvement to the case of prosecution. He admitted that, C.Ws.1, 7 and 8 are his friends.

27. As stated above, the P.W.5 has not supported the case of prosecution.

28. P.W.6 is the witness to seizure mahazar. He is the employee of City Corporation, Ballari. Of-course, he has deposed as per Ex.P.10. But, the main argument of the learned counsel for the accused pertaining to this witness is, there is no document to show that, he was deputed to that work. In the Attendance Register, there is no mention made with regard to his deputation.

29. A perusal of Ex.P.28, it discloses that, the Deputy Commissioner of City Corporation has issued this letter to the I.O. on 14.9.2021 stating that, two staff members were deputed for drawing panchanama. It indicates that, on the same day, the letter was addressed to the City Corporation. But, there is no mention made in Movement register and the Attendance Register with regard to the deputation. There is no proper document maintained as to from which time to which time they were deputed.

30. As per Exs.P.11 & P.12, the injured were taken to VIMS hospital on 12.9.2021 at 10:45 P.M. There is overwriting with regard to year. But, there is footnote to that overwriting. There is no mention made as to who assaulted them on that day. It is only mentioned that, there was assault on that day. There was no impediment for them to inform as to who assaulted them.

31. The Doctor who has been examined as P.W.9 has admitted in the cross-examination that, there is possibility to sustain the said injuries mentioned in Exs.P.11 & P.12, if a person falls on hard surface.

32. The P.W.10 is another eyewitness. He has also supported the case of prosecution in the examination-in-chief. In the cross-examination, he admitted that he studied up to Diploma and was working in V.K.R.P. Factory. He admitted that, C.Ws.1, 6 and 8 are his relatives. He does not know that, earlier C.W.7 was made as accused and thereafter, his name has been dropped. A

permission was given to C.W.7 to install the Idol. He has denied the other suggestions.

33. P.W.11 is the owner of Tata Ace. He only deposed that the same was given about four years ago for using the same to take Ganesh Idol for immersion. But, he has not supported the case of prosecution to the effect that, the same was taken by the accused No.1 for the purpose of assaulting C.Ws.1 and 2.

34. P.W.12 to P.W.17 are the police witnesses including the Investigating Officer. They have deposed with regard to registration of complaint, drawing up of panchanama, arresting of accused, recovery of weapon and vehicle at the instance of accused, recording of statement of witnesses and submission of charge sheet.

35. In the cross-examination, P.W.17 who is the Investigating Officer has admitted that, pertaining to C.Ws.4 and 5, who are the officials of City Corporation, attendance register was not obtained. He also admitted that in Ex.P.27, their movements are not mentioned.

36. P.W.16 in his evidence has admitted that in Ex.P.22 – Certificate, he has not mentioned that from which Camera, the video was recorded. Therefore, it is a defective certificate. Hence, it cannot be fully accepted in view of Arjun Pandith Rao case passed by the Hon'ble Supreme Court.

37. It is to be noted that, even though the evidence of injured and eye witnesses appears to be believable and that can be based, but as per Ex.P.1 – Complaint, the investigation has not been conducted. Admittedly, P.W.1 is highly educated person. He has mentioned about the assault made on C.W.7, who has been examined as P.W.5. But, he has not supported the case of prosecution. In fact, P.W.5 was shown as accused in the beginning, but his name has been dropped. The name of Charan against whom, an assault has also been made, is missing. There are clear omissions with regard to visiting the police station on the same day night. Therefore, these contradictions and omissions create serious doubts with regard to for what reason, the alleged incident had taken place and the

manner in which, the incident was taken place. Further, all the material witnesses are close friends. This alleged incident was taken place in connection with Ganesh Idol and there were two groups in that locality. There is no proper explanation as to why immediately the complaint was not lodged. Therefore, these benefits are available to the accused as per Criminal Jurisprudence. Therefore, even though there is some evidence to believe the case of prosecution for the purpose of proving the charges, but in view of the above said important doubts, the same shall be extended in favour of accused. Therefore, as rightly pointed by the counsel for accused, by extending the benefit of doubts, I hold that, the prosecution has failed to prove the charges by placing cogent, convincing and satisfactory evidence. Therefore, I am not inclined to accept the arguments of learned Public Prosecutor. In view of the above said discussion, I answer above points in the **Negative.**

38. **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 4 are hereby acquitted of offences punishable u/Sections 504, 307, 323, 324 R/w Section 34 of I.P.C. and u/Secs.3(1)(r), 3(1)(s), 3(2)(V), 3(2)(v-a) of SC and ST (PREVENTION OF ATROCITIES) Act, 1989.

The bail bond of accused Nos.1 to 4 and that of their sureties shall be continued for a period of six months or till filling of appeal, if any.

M.O.1 and M.O.2 i.e., two clubs are being worthless and hence, they are ordered to be destroyed, after appeal period is over.

The order regarding release of Tata Ace vehicle bearing Regn. No.KA-34/A-2341 is hereby made absolute.

[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 **17th 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. T. Anil Kumar.
P.W.2. Mareenna.
P.W.3. Shashikumar.
P.W.4. Manjunath.
P.W.5. Koushik.
P.W.6. Ayyappa.
P.W.7. Roshith Kumar Reddy.
P.W.8. Santosh.
P.W.9. Dr. Rakesh.
P.W.10. Sunesh.
P.W.11. Yallappa.
P.W.12. Honnurappa.
P.W.13. Nagaraj Naik.
P.W.14. Halesh M.
P.W.15. Maruti.
P.W.16. Nagaraj P.
P.W.17. Ramesh Kumar H.B.

LIST OF DOCUMENTS MARKED ON BEHALF OF PROSECUTION :

Ex.P.1. Complaint.
Ex.P.1(a). Signature of P.W.1.
Ex.P.2. Spot & Seizure Panchanama.
Ex.P.2(a). Signature of P.W.1.
Exs.P.3 & P.4. Photos.
Ex.P.5. C.D.
Exs.P.6 & P.7. Photos.
Ex.P.8. Statement of P.W.5.
Ex.P.9. C.D.
Ex.P.10. Seizure panchanama.

- Ex.P.10(a). Signature of P.W.6.
- Ex.P.11. Wound certificate.
- Ex.P.11(a). Signature of P.W.9.
- Ex.P.12. Wound certificate.
- Ex.P.12(a). Signature of P.W.9.
- Ex.P.13. Letter to Doctor.
- Ex.P.14. Certificate of Examination.
- Ex.P.14(a). Signature of P.W.9.
- Ex.P.15. Statement of P.W.11.
- Ex.P.16. Sketch.
- Ex.P.16(a). Signature of P.W.12.
- Ex.P.17. Letter of P.W.D., with map.
- Ex.P.18. Letter.
- Ex.P.19. Letter.
- Ex.P.20. F.I.R.
- Ex.P.20(a). Signature of P.W.14.
- Ex.P.21. 65(B) Certificate.
- Ex.P.21(a). Signature of P.W.15.
- Ex.P.22. C.D.
- Ex.P.23. 65(B) Certificate.
- Ex.P.23(a). Signature of P.W.16.
- Ex.P.24. The order of S.P.
- Ex.P.25. Sketch.
- Ex.P.25(a). Signature of P.W.17.
- Ex.P.26. Voluntary statement of Accused No.1
- Ex.P.26(a). Signature of P.W.17.
- Ex.P.27. Letter of I.O.
- Ex.P.27(a). Signature of P.W.17.
- Ex.P.28. Letter/Appointment order.
- Ex.P.28(a). Signature of P.W.17.
- Ex.P.29. Letter to Tahsildar.
- Ex.P.29(a). Signature of P.W.17.
- Ex.P.30. Caste certificate.
- Ex.P.30(a). Signature of P.W.17.
- Ex.P.31. Letter to Commissioner, Corporation, Ballari.
- Ex.P.31(a). Signature of P.W.17.
- Ex.P.32. Letter of Deputy Commissioner.
- Ex.P.32(a). Signature of P.W.17.
- Ex.P.33. Letter to Asst. Executive Engineer, P.W.D.
- Ex.P.33(a). Signature of P.W.17.

Ex.P.34. Letter to Superintendent, VIMS hospital,
Ballari.

Ex.P.34(a). Signature of P.W.17.

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

M.Os.1 & Two Clubs.
2.

**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.