

KABK010026722024



IN THE COURT OF THE II ADDITIONAL DISTRICT AND  
SESSIONS JUDGE, BAGALKOT, ITINERARY COURT,  
HUNGUND

Present: Sri. G. A. Mulimani M.A., LL.M.,  
District and Sessions Judge.

Dated this the 13<sup>th</sup> day of March, 2026

**CRIMINAL APPEAL No.89/2024**

**Appellant/Accused:**

Basavaraj S/o. Avvanneppa Kumbar,  
Age: 32 years, Occ: Business,  
R/o: Nandawadagi,  
Tq: Hunagund Dist: Bagalkot.

**(By Sri.K.Y.Niranjan, Advocate)**

Vs.

**Respondent:**

The State of Karnataka  
Through Ilkal Police Station.

**(By Ld. Public Prosecutor, Bagalkot)**

**JUDGMENT**

This appeal is filed under Section 415 of BNSS, Sec.374 of Cr.P.C. by the appellant/accused in C.C.No.88/2013 on the file of Ld. Addl. Civil Judge and JMFC, Hunagund Sitting Itinerary Court at Ilkal against the Judgment of Conviction and Sentence dated 07.10.2024.

2. Brief facts of the case of Prosecution/respondent before the Trial Court were as under:

3. For the sake of convenience I have refer the parties as per their rank before the trial court.

4. The P.S.I., Ilkal Police Station has submitted charge sheet against accused, for the offence punishable under section 323, 326, 504 and 506 (2) of I.P.C.

5. The brief facts of case of prosecution is that, on 15.10.2012 at 5.30 p.m., at Nandawadagi village bus stop in front of the house of the accused on public road within

the limits of Ilkal P.S. when accused was disbursing the Kerosene oil at fair price shop and complainant had been to purchase Kerosene oil at fair price shop. The accused questioned about sale of Kerosene oil to the said high price. Due to which the accused picked up quarrel with the complainant and abused him in filthy language, such as “Bosadi magane” and assaulted him with hands and stone on his forehead and caused bleeding injury. Thereafter threatened him with dire consequences to take away of his life.

6. Accordingly, the complainant had lodged his complaint in Ilkal Police Station. On the basis of said complaint, a case has been registered in Ilkal P.S.Cr.No.165/2012 for the offence punishable under Section 323, 326, 504 and 506 (2) of I.P.C. The Investigating Officer has visited the place of occurrence. Then conducted the spot mahazar and seized the material objects under Panchanama and recorded the statement of witnesses. After completion of entire investigation has

submitted charge sheet against accused for the offence punishable under section 323, 326, 504 and 506 (2) of I.P.C.

7. After filing of charge sheet, trial court took cognizance of the offence and enlarged the accused on regular bail. Section 207 of Cr.P.C. was complied with. Thereafter the trial court framed the charge, read over and explained to the accused in the language known to him, wherein the accused has pleaded not guilty and claimed to be tried.

8. To bring home the guilt of the accused person, the prosecution got examined 9 witnesses as P.W.1 to 9 and got marked 8 documents as Ex.P.1 to Ex.P.8 and MO.1 and closed its side. Afterwards the Trial Court enquired the accused and recorded his statement as provided under Section 313 of Cr.P.C., the accused has denied the incriminating evidence against him and did not claim the defence evidence.

9. The Ld. Trial Judge heard the arguments of both the sides.

10. The Ld. Trial Judge formed following Points for determination:

1. Whether prosecution proves beyond all reasonable doubt that on 15.10.2012 at 5.30 PM at Nandawadagi village bus stop in front of the house of the accused on public road within the limits of Ilkal P.S. when accused was disbursing the Kerosene oil at fair price shop accused picked up quarrel with the complainant in respect of sale of Kerosene oil at high rate and when complainant questioned him, he assaulted the complainant with hands and voluntarily caused hurt and thereby have committed an offence punishable U/Sec.323 of I.P.C .?
2. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place, accused picked up quarrel with the complainant in respect of sale of Kerosene oil at high rate at fair price shop and when complainant questioned him, he assaulted complainant with his hands and thereafter picked up the handful stone from the spot and assaulted towards complainant forehead and caused bleeding injury and voluntary

caused grievous hurt with handful stone and thereby have committed an offence punishable U/Sec.326 of I.P.C.?

3. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place, accused picked up quarrel with the complainant and abused him in a filthy language such as **“Bosadi-Magane”** and intentionally insulted and thereby gave provocation, intending or knowing it to be likely that such provocation will cause him to break the public peace or to commit any other offence and thereby have committed an offence punishable U/Sec.504 of I.P.C.?
4. Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place, accused picked up quarrel with the complainant and threatened him with dire consequences in order to take away his life and committed criminal intimidation and thereby have committed an offence punishable U/Sec.506(2) of I.P.C.?
5. What Order or sentence?

11. Ld. Trial Judge after appreciating the materials available on record, answered the Point No.1 and 3 in the Negative and Point No.2 and 4 in the Affirmative by the

Judgment dated 07.10.2024, acquitted the accused for the offence punishable under sections 323 and 504 of I.P.C and convicted the accused and sentenced to undergo Rigorous Imprisonment for a period of 3 years and with a fine of Rs.10,000/- for the offence punishable under section 326 of I.P.C in default of payment of fine amount he shall under go SI of 03 months. Further accused sentenced to undergo SI for 01 year for the offence punishable under Section 506(2) of I.P.C

12. The said Judgment is challenged in the present appeal on the **Grounds** mentioned in the Appeal Memo, which are as under:

1. The judgment and order of conviction passed by the trial court is perverse and capricious and not proper one. That the trial court had not at all appreciated the material fact and law and wrongly convicted the appellant/accused. The reasonings given on points for consideration are not proper one. The trial Court had failed to appreciate the material facts and law.

2. The PW.1 in his chief-examination had not deposed as the accused had assaulted him with stone. The P.W.1

depose that he had sustained bleeding injury and blood was fallen on his dress and further deposed that when he was admitted in the hospital at that time Ilkal police visited the hospital and recorded his statement and they received his complaint, if it was true the IO would have collected the blood stained dress but the I.O. had not collected any blood stained dress of PW.1. This fact itself shows that false case was registered against accused/appellant.

3. That the PW.9 the medical officer and the I.O had not produced any X-ray before Trial Court to show that the PW.1 had sustained fracture of left frontal bone. That the PW.9 medical Officer in his cross-examination has admitted that he had not taken any X-ray on the wound sustained to PW.1. That on perusal of the alleged charge sheet and the evidence of PW.9 the medical officer and PW.8 the I.O, it does not reveals that the I.O had taken opinion by the M.O to show that the alleged injury might have sustained to PW.1 by the alleged stone i.e, MO.1. That in present case PW.2 & 4 are panchas and in their cross-examination they have deposed that they have not known the contents of Panchanama and they were signed the Panchanama only on the say of police hence the scene of offence and recovery of MO.1 is not proved.

4. That the PW.3 allegedly cited as eye witness who in his cross-examination has admitted that he knows

complainant/PW.1 since 18 years and further he deposed that he do not know the name of the person standing in queue on the alleged date of incident, hence he being an interested witnesses the Trial Court had consider the same and convicted the accused which is not proper one. The PW.5 allegedly cited as eye witness who in his cross-examination stated that on the alleged date of incident there were no villagers present in the alleged spot and he knew PW.1 from so many years and he had not given statement before the IO, hence he being an interested witnesses, the Trial Court had not consider the same and convicted the accused which is not proper one.

5. That the PW.6 allegedly cited as eye witness in his cross-examination by the learned APP, he denied the suggestion that the accused had abused PW.1 in filthy words further he stated that the brother of the accused has abused PW.1, this contradictory statements was not consider by the Trial Court. That PW.7 admitted in his cross-examination that the PW.1 is his relative, hence who is an interested witness. That he further stated that he can not say the name of the persons gathered on the alleged date of incident. The PW.8 the IO in his cross-examination, he deposed that he had not enquired whether PW.1 had possessed ration card or not on the alleged date of incident. There is delay of 18 days in filing the appeal.

13. After registration of this appeal, Notice of Appeal was sent to the respondent and the respondent has appeared through Ld. Public Prosecutor, Bagalkot.

14. The Sentences passed by the Trial Court was suspended by this Court vide order dated 24.01.2025.

15. The Trial Court's records were called for and the same were received.

16. I have heard the arguments of the Ld. Counsel for Appellant. In spite of sufficient opportunity, the Ld. Public Prosecutor for respondent has not argued the matter and hence arguments of respondent is taken as heard.

17. On the basis of the available materials, the following Points emerge for my determination:

1. Whether the Trial Judge erred in holding that, the accused has committed an offence punishable under Section 323, 326, 504 and 506(2) of I.P.C. and whether the Sentences imposed by the Trial Court are

disproportionate? Interference in the said findings as required?

2. What Order?

18. My findings on the above points are as under:

**Point No.1:** In the Negative

**Point No.2:** As per the final order for the following:

**REASONS**

19. **Point No.1:-** The case of both the parties is stated in the above Paras and no need to repeat it.

20. It was vehemently argued by the Ld. Counsel for the Appellant that, judgment and order of conviction passed by the trial court is perverse and capricious and not proper one. That the trial court had not at all appreciated the material fact and law and wrongly convicted the appellant/accused. The reasonings given on points for consideration are not proper one. The trial Court had failed to appreciate the material facts and law. The PW.1 in his chief-examination had not deposed as the accused had

assaulted him with stone. The P.W.1 depose that he had sustained bleeding injury and blood was fallen on his dress and further deposed that when he was admitted in the hospital at that time Ilkal police visited the hospital and recorded his statement and they received his complaint, if it was true the IO would have collected the blood stained dress but the I.O. had not collected any blood stained dress of PW.1. This fact itself shows that false case was registered against accused/appellant. That the PW.9 the medical officer and the I.O had not produced any X-ray before Trial Court to show that the PW.1 had sustained fracture of left frontal bone. That the PW.9 medical Officer in his cross-examination has admitted that he had not taken any X-ray on the wound sustained to PW.1. That on perusal of the alleged charge sheet and the evidence of PW.9 the medical officer and PW.8 the I.O, it does not reveals that the I.O had taken opinion by the M.O to show that the alleged injury might have sustained to PW.1 by the alleged stone i.e, MO.1. That in present case PW.2 & 4 are

panchas and in their cross-examination they have deposed that they have not known the contents of Panchanama and they were signed the Panchanama only on the say of police hence the scene of offence and recovery of MO.1 is not proved.

21. Further argued that, PW.3 allegedly cited as eye witness who in his cross-examination has admitted that he knows complainant/PW.1 since 18 years and further he deposed that he do not know the name of the person standing in queue on the alleged date of incident, hence he being an interested witnesses the Trial Court had consider the same and convicted the accused which is not proper one. The PW.5 allegedly cited as eye witness who in his cross-examination stated that on the alleged date of incident there were no villagers present in the alleged spot and he knew PW.1 from so many years and he had not given statement before the IO, hence he being an interested witnesses, the Trial Court had not consider the same and convicted the accused which is not proper one. PW.6

allegedly cited as eye witness in his cross-examination by the learned APP, he denied the suggestion that the accused had abused PW.1 in filthy words further he stated that the brother of the accused has abused PW.1, this contradictory statements was not consider by the Trial Court. That PW.7 admitted in his cross-examination that the PW.1 is his relative, hence who is an interested witness. That he further stated that he can not say the name of the persons gathered on the alleged date of incident. The PW.8 the IO in his cross-examination, he deposed that he had not enquired whether PW.1 had possessed ration card or not on the alleged date of incident. Hence prayed to allow the appeal and set aside the impugned judgment.

22. The Ld. P.P. for Respondent has vehemently argued that, the Trial Court has passed the judgment in accordance with law. Further, the Trial Court has given sufficient time for concluding the trial. The Trial Court has examined 09 witnesses as P.W.1 to 9, got marked Ex.P.1 to Ex.P.8 and M.O.1. On the basis of the material witnesses

the Trial Court has convicted the accused. Therefore, the judgment passed by the Trial Court is in accordance with law and no question arise to interfere with the impugned judgment of the Trial Court.

23. Let me consider the case, the respondent/prosecution has examined 9 as P.W.1 to 9 and got marked 8 documents as Ex.P.1 to 8. For the sake of convenience I have summarized as Ex.P.1 is the complaint, Ex.P.2 is the Spot Mahazar, Ex.P.3 is F.I.R., Ex.P.4 is Hand sketch map, Ex.P.5 is Statement of PC, Ex.P.6 is Statement of PC, Ex.P.7 is Wound Certificate issued by Government hospital of Ilkal and Ex.P.8 is Wound Certificate issued by Doctor Katti Hospital Bagalkot. M.O.1 is Handful Stone.

24. No oral evidence and documentary evidence is adduced on behalf of accused.

25. I have perused the evidence of prosecution witnesses. Admittedly, on 15.10.2012 at 5.30 p.m., at Nandawadagi village bus stop in front of the house of the

accused on public road within the limits of Ilkal P.S. when accused was disbursing the Kerosene oil at fair price shop and when complainant had been to purchase Kerosene oil at fair price shop, when questioned sale of Kerosene oil at high rate, accused picked up quarrel with the complainant and abused him in filthy language such as “Bosadi magane” assaulted him with hands and with handful stone towards his forehead causing bleeding injury and threatened him with dire consequences to take away his life.

26. In order to establish the case of prosecution, the prosecution has examined 9 witnesses as P.W.1 to 9. The P.W.1 is victim, P.W.3, 5 to 7 are the eye witnesses, P.W.2 and 4 are panchas, P.W.8 is Investigating Officer and P.W.9 is Medical Officer.

27. P.W.1 Basanagouda Sanganagouda Agasimundin has deposed in the chief examination that, he knows the accused person, who is an agriculturist.

Further, the accused is running fair price shop in his village. On 15.10.2012 at about 05.20 p.m. when he had been to fair price shop of accused. His brother was sitting in the shop, who sell the kerosene. The brother of accused stated that, the rate of kerosene per liter is Rs.20/-. When he questioned that, the rate of kerosene is fixed for Rs.17/- per liter. At that time, brother of accused picked up quarrel as to who are you to ask the price and abused him in filthy language. When the C.W.1 questioned that, why he abused without any reason, for that, the accused assaulted on his forehead. Due to which, he become unconsciousness and fell down. The public who are under queue for kerosene have pacified the quarrel. At that time, the accused person gave life threat to him. Thereafter, he was admitted in the Ilkal Hospital, wherein police came and received his complaint, which is marked as Ex.P.1 and his signature is marked at Ex.P.1(a). In the incident, his cloths were stained with blood. He has identified the accused who

present before the Trial Court and also identified the material object, which is marked at M.O.1.

28. P.W.2 Basanagouda Basalingappagouda Venkanagoudar has deposed in the chief examination that, about 2 to 3 months back, in between 07.00 a.m. and 08.00 a.m., the police have conducted spot Panchanama in front of the house of accused, wherein the spot is shown by the C.W.6. Police called him to act as a pancha with the history of alleged incident. The Investigating Officer has seized one stone under mahazar. The Panchanama is marked at Ex.P.2 and his signature is marked at Ex.P.2(a). C.W.2 was present as a co-pancha. He has identified M.O.1.

29. P.W.3 Basavaraj Govindagouda Govdindagoudar has deposed in the chief examination that, he knows the C.W.1 and accused, accused is an agriculturist and his brother Sharanappa running fair price shop at Nandawadagi village. About 2 years 3 months

back at about 05.30 p.m. he had been to fair price shop in order to purchase kerosene oil. He was in a queue and C.W.1 also standing in the queue. When the complainant questioned, why sell the kerosene oil on higher price. At that time, accused person came from his behind and assaulted on right side of the head by means of stone. He, C.W.5, 6 and other public were pacified the quarrel. Thereafter, C.W.1 has lodged the complaint. In the incident due to the assault made by the accused, the C.W.1 has sustained bleeding injury on his head. Further C.W.1 was admitted in the Bagalkot District Hospital. He has made statement before the Investigating Officer about the incident. He has identified the accused and M.O.1 before the Trial Court.

30. P.W.4 Sanganagouda Salabanagouda has deposed in the chief-examination that, he knows C.W.1 and accused person. He knows about the incident took place between accused and C.W.1. On 16.10.2012 police called him to act as a pancha in the said incident. Hence,

he went to the spot, i.e. in front of house of accused. Police have conducted Panchanama in between 04.00 p.m. and 05.00 p.m. and the said Panchanama is already marked at Ex.P.2 and his signature is marked at Ex.P.2(b). At that time, C.W.6 was present. Police have seized M.O.1 under mahazar.

31. P.W.5 Subhas Rudrappa Mudhol has deposed in the chief-examination that, he knows accused person who present before the trial court and C.W.1, both are from his village. The accused has distributed the kerosene through the fair price shop of his village. About two years back at about 04.00 p.m., he and other accused were present in the said fair price shop, at that time accused has questioned the C.W.1 as why the price of kerosene distributed in higher rate. Immediately the accused has assaulted on the head of C.W.1 by means of stone. Due to which the C.W.1 has sustained bleeding injuries. Except this he do not know anything about the incident. He do not know about the alleged abuse. Further has sated that, he

has not made any statement before the Investigating Officer about the incident. At this stage, this witness was partly turned hostile. During the cross examination conducted by the Ld. APP has admitted the suggestions as true.

32. P.W.6 Gadigeppagouda Mallanagouda Kirasur has deposed in the chief-examination that, he knows the accused who present before the trial court and C.W.1. About five years back at about 04.30 p.m., he went to the fair price shop of accused in order to bring the kerosene. At that time, C.W.1 was questioned the accused as why he was taking Rs.20/- per liter for kerosene. At that time, accused has assaulted on the head of C.W.1 by means of stone i.e. M.O.1. Due to which the C.W.1 has sustained bleeding injuries on the head. He and others who were present in the spot have referred the C.W.1 to the hospital for treatment. He do not know about the alleged abuse against the C.W.1. He has not made any statement before the Investigating Officer about the incident. At this stage,

this witness was partly turned hostile. During the cross examination conducted by the Ld. APP has admitted the suggestions as true.

33. P.W.7 Amaregouda Mahantagouda Govindagouda has deposed in the chief-examination that, he knows C.W.1 and accused person who present before the trial court. In the year 2012 the accused was running the fair price shop. In the year 2012 in between 05.30 and 06.00 p.m., C.W.1 came to the said fair price shop of accused and raised objection as to why you are selling kerosene for higher price. Immediately, the accused person has picked up quarrel with C.W.1 and assaulted by means of stone. Due to which C.W.1 has sustained bleeding injuries. At that time, he and C.W.4, 5 and 8 have pacified the quarrel. Thereafter they have admitted the C.W.1 to Ilkal hospital for treatment. Further C.W.1 was shifted to Katti Hospital, Bagalkot for higher treatment. The incident was took place approximately at about 06.00 p.m. Police have recorded his statement about the incident. He has

identified the M.O.1, which was used for commission of offence by the accused person.

34. P.W.8 Bahuddeen Rukmuddeen Gaddekar has deposed in the chief-examination that, on 15.10.2012 at about 08.15 p.m. has received MLC from Ilkal Government hospital. Immediately, he visited the Government hospital and received the verbal complaint from C.W.1. Further, had returned to the Police Station and on the basis of the said verbal complaint has registered the case in his PS Crime No.165/2012 and sent the F.I.R. to the court. The Complaint is already marked as Ex.P.1 and his signature is marked as Ex.P.1(b). FIR is marked at Ex.P.3 and his signature is marked at Ex.P.3(a). Thereafter he recorded the further statement of C.W.1 about the name of accused. On next date of the complaint, has visited the scene of offence and drawn the spot panchanama, where the spot is shown by C.W.6 in presence of panchas, which is already marked at Ex.P.2 and his signature is marked at Ex.P.2(c). Thereafter has drawn the rough sketch of the spot, which

is marked at Ex.P.4 and his signature is marked at Ex.P.4(a). Further has seized the stone, which was used for the purpose of commission of the said offence, which is marked at M.O.1.

35. Further has stated that, on the same day, he has recorded the statement of C.W.4 to 8 and has deputed PC No.767 of his Police Station to trace out the accused person, but he has not produced the accused as not found. Further he has submitted reports, which are marked at Ex.P.5 and 6, his signatures are marked at Ex.P.5(a) and Ex.P.6(a). On 02.11.2012 he has obtained the wound certificate of C.W.1, which is marked at Ex.P.7 and his signature is marked at Ex.P.7(a) and the certificate issued by Katti Hospital, which is marked at Ex.P.8, his signature is marked at Ex.P.8(a). Further has stated that, as per the contents of Ex.P.8, the C.W.9 has issued wound certificate at Ex.P.7. After completion of investigation has filed the charge sheet against the accused.

36. P.W.9 Dr.Shrishail Gururaj Jamakhandi has deposed in the chief-examination that, on 15.10.2012 at about 07.15 p.m. has examined the C.W.1 with the history of assault, who accompanied with police. On examination has found the following injuries:

1. Sutured wound on left side forehead and frontal bone depressed.

37. After first aid treatment has referred the C.W.1 to Katti Hospital for higher treatment. Thereafter he has verified the report of Dr.Katti, has issued wound certificate stating that, frontal bone depressed fracture with adjacent thin acute SDH and mild pneumocephalus and bleeding present and clot and mild injuries inside the brain. On the basis of report, wound certificate has opined that, the above said injury is grievous in nature. Injury might have been caused by contact with hard and blunt object. The said wound certificate is already marked at Ex.P.7 and his signature is marked at Ex.P.7(a). Further has stated that, the said injury may be caused through M.O.1.

38. During Cross-Examination P.W.1 has stated that, due to the bleeding injury sustained by him in the incident, he had been hospitalized at Ilkal, then Katti hospital for treatment. Further has denied that, C.W.1 do not have any Ration Card, as such the accused has refused to distribute the kerosene oil to C.W.1 and due to the earlier enmity against the accused has filed this false complaint. Further has denied that, the accused has not abused and assaulted on him by means of stone.

39. During Cross-Examination P.W.2 has denied that, he is relative of C.W.1 or same caste, in order to help the C.W.1 has deposed falsely. In the cross-examination of P.W.3 has stated that, the C.W.1 is his villager and he knows the complainant since from 18 years. Further has stated that, on the date of alleged incident, he was standing in a queue in front of the fair price shop to purchase kerosene oil. The quarrel took place at about 05.30 p.m. and he has identified the M.O.1, which was used for commission of offence. Further has denied that,

he has not having Ration Card and he was not standing in the queue. Further has denied that, he was not present at the time of incident and has deposed falsely in order to help the C.W.1 due to his acquaintance with him. During Cross-Examination P.W.4 has also denied that, he is relative of C.W.1 or same caste, in order to help the C.W.1 has deposed falsely.

40. During Cross-Examination P.W.5 has stated that, he has admitted he had been to the fair price shop of accused for purchase of kerosene oil. Further has denied that, he has deposed falsely in order to help the complainant. P.W.6 during Cross-Examination has stated that, he is having BPL Card and he had been to fair price shop of the accused in order to purchase the kerosene oil. The said fair price shop is running by brother of accused. Further has denied that, he has deposed falsely in order to help the complainant. P.W.7 has admitted in the cross-examination that, he is relative of complainant and his house is situated in the middle of the village. Further has

admitted about the quarrel, which took place between the complainant and accused in front of the house of the accused situated near Bus Stand i.e. fair price shop. Further has stated that, the accused assaulted the complainant by means of stone. Further has denied that, he has deposed falsely in order to help the complainant. P.W.8 has denied in the cross-examination that, he has not conducted proper investigation and has created false wound certificate and filed false charge sheet against the accused. P.W.9 has denied in his cross-examination that, injury could be observed only through X-ray and he has issued false wound certificate and deposed falsely in order to help the prosecution. Further has denied that, the injury sustained by C.W.1 might have caused due to the fall on thorn trees and not due to the assault caused by the accused by means of M.O.1.

41. On taking into consideration of above available material, it clearly demonstrate that, no doubt, it is the case of prosecution that, on 15.10.2012 at about 05.20

p.m., when the C.W.1 had been to purchase kerosene oil to the fair price shop of the accused. When the C.W.1 questioned the rate of kerosene oil, the accused stated that, the rate of kerosene is at Rs.20/- per liter. At that time, C.W.1 questioned that the rates of kerosene oil per liter is Rs.17/- only. When he was argued with the brother of accused, by that time, the accused came and intervened and started abusing C.W.1 in filthy language. When the C.W.1 also questioned the same, immediately the accused has assaulted on his left side of forehead. Due to which he has sustained grievous injury and felt unconsciousness. Thereafter, the locality peoples came along with C.W.4 and 5 and have pacified the quarrel. At that time accused gave life threat with dare consequences to the C.W.1.

42. The prosecution has examined P.W.1 to 9, the P.W.1 is injured victim has categorically stated about the incident. Therefore, the testimony of P.W.1 cannot be discarded. His presence on the spot proved by the prosecution by examining P.W.5 to 7. During the cross-

examination of P.W.1, nothing has been elicited to discard the testimony of P.W.1, as he himself has been injured in the said incident. Therefore, there are no any material evidence available by the defence counsel for non-consideration of evidence of P.W.1. Further the evidence of P.W.1 is corroborated by the P.W.3 and 7. The P.W.5 and 6 though have partly hostile, they have categorically deposed about the quarrel took place between complainant and the accused and that injury sustained by P.W.1 during the incident. P.W.5 and 6 have deposed that, they have not made any statement before the Investigating Officer, does not thrown away the entire evidence of P.W.5 and 6. The P.W.5 and 6 have categorically stated about the picked up quarrel and assault caused by the accused on C.W.1. They have only deposed that, they do not know about abusing the complainant in filthy language. Therefore, the evidence of P.W.1, 3 and 7 remained unshaken by the accused in his defence evidence. Therefore, there are no any other grounds found to disbelieve the evidence of P.W.1, 3 and 7.

Further, the evidence of P.W.1, 3 and 7 are corroborated with the evidence of P.W.9, who is the medical officer and issued wound certificate i.e. Ex.P.7. Further the medical officer has opined that, the said injuries are grievous in nature, might have caused with M.O.1. Therefore, the evidence of P.W.1, 3, 5 to 7 and 9 cannot be discarded, unless and until there is a probability of evidence of the defence counsel to show that, they have been projected by the prosecution to depose against the accused person.

43. Even there is no any hostile enmity towards the accused available on record in order to show that, the P.W.3 and 7 who have pacified the quarrel, who have deposed against the accused. Further, the injury sustained by the P.W.1 is not in dispute, except the suggestion by the defence that, the P.W.1 has sustained injury by falling on thorn tree. On perusal of Ex.P.7 and 8, which are clearly demonstrate that, the P.W.1 was sustained injuries with the history of assault. Further, P.W.7 and 8 deposed that, on 15.10.2012 the P.W.1 is admitted in the Government

Hospital, Ilkal and the medical officer has found the wounds mentioned in Ex.P.7. Further the patient was referred to Dr.Katti Trauma and Orthopedic Hospital at Bagalkot. Wherein the said doctor has treated the P.W.1 from 16.10.2012 to 18.10.2012 and opined that, the injury sustained by the complainant are grievous in nature. However, the Ld. Defence Counsel has not disputed that, the P.W.1 was treated from Ilkal Government Hospital and admitted in Dr.Katti Trauma and Orthopedic Hospital, Bagalkot.

44. Further the defence has not disputed about the M.O.1 by which the P.W.1 has sustained injuries. The P.W.2 and 4 are the spot panchas, have categorically stated that, the police have conducted spot mahazar in their presence and seized M.O.1 from the spot. The evidence of P.W.2 and 4 also supported the evidence of P.W.1, 5 to 7 in respect of assault by the accused on the complainant. On the basis of evidence of P.W.2 and 4 the incident was took place in front of fair price shop of

accused. On the basis of above evidence the prosecution has established the place of offence and incident and injury sustained by the P.W.1.

45. P.W.8 is the Investigating Officer who has categorically stated in which and what manner he has conducted investigation and submitted charge sheet against the accused. Further P.W.8 has identified the accused and also the FIR, complaint, wound certificate and other records. On perusal of the above oral and documentary evidence, there is no evidence available on record to show that, the supported witnesses are in collusion with the complainant and filed false case against the accused. Further admittedly accused was absconded from the date of incident till filing of charge sheet. Even has not given any explanation in the examination of accused as provided under section 313 of Cr.P.C.

46. It is pertinent to note that, in the Cross-Examination of P.W.5 conducted by the Ld. Defence

Counsel, has posed the question that, he had APL Card. Further has admitted that, APL Card holder is not entitle for Kerosene Oil. P.W.6 has stated in his Cross-Examination that, he is having BPL Card. He do not know about the ration card of C.W.1. He has not seen personally that, C.W.1 has taken Kerosene Oil. P.W.7 has stated in his Cross-Examination that, C.W.1 had ration card, he has not seen the same. On the basis of above evidence, it clearly goes to show that, the C.W.1 wen to the fair price shop of accused in order to bring the kerosene oil, however, the C.W.1 was not having valid ration card in order to get kerosene oil as contended by the accused. Even assuming that, if C.W.1 had not possessed ration card, at the most, he is not entitle to get the kerosene oil, on the other hand, the accused is entitle to refuse to give the kerosene oil to C.W.1. But the accused has no right to pick up quarrel and assault the complainant. Therefore, on re-appreciation of entire oral and documentary evidence and the reasons assigned by the trial court, no doubt, the prosecution has

sufficiently proved that, the accused person has assaulted and caused grievous hurt to the P.W.1 and also threatened him with dire consequences beyond all reasonable doubt. Taking into consideration of the above discussion and on re-appreciation of the entire oral and documentary evidence, this court finds that, the Trial Court has rightly convicted the accused for the offences punishable under section 326, 506(2) of I.P.C.

47. Therefore, the accused has not made out sufficient grounds to accept his defence during the trial of the case. Therefore, elaborate discussion of the case, the contention of the appellant/accused is not acceptable. Looking into any angle, the findings of the trial court is proper, it is based on the sound principles of law and does not call for any interference. Hence, I answer **Point No.1 in the Negative.**

48. **Point No.2:-** In view of my findings on the above point No.1, this appeal is devoid of merits. Thus,

same is liable to be dismissed by confirming the impugned judgment and order of sentence. Being of that opinion, I proceed to pas the following:

ORDER

The criminal appeal filed U/Sec.374 of Cr.P.C., is hereby **dismissed**.

Consequently, the impugned judgment of conviction and sentence passed by the Ld. Addl. Civil Judge and JMFC, Hunagund Sitting Itinerary Court at Ilkal in C.C. No.88/2013 dated 07.10.2024 for the commission of offences punishable under Section 326 and 506(2) of I.P.C. and imposing sentence thereon, is hereby **confirmed**.

Appellant/accused is hereby directed to appear before the Ld. Trial Court to serve the sentence.

Office is hereby directed to send back L.C.R., along with certified copy of this judgment, forthwith.

(Dictated to the Stenographer Grade-III directly on the computer, script corrected and signed by me, then pronounced in the open court on this the 13<sup>th</sup> day of March, 2026.)

(G. A. Mulimani)  
II Addl. District and Sessions Judge,  
Bagalkote,  
Itinerary Court, Hungund.