

KABK220000932025



SC/10047/2025

**IN THE COURT OF THE III ADDL.DISTRICT & SESSIONS
JUDGE, BAGALKOTE, SITTING AT: MUDHOL**

PRESENT

**SRI. GURURAJ G. SHIROL,
B.Com., LL.M.,
III Additional District & Sessions Judge,
Bagalkote, sitting at Mudhol**

SC. No.10047/2025

Dated this 6th day of March-2026

COMPLAINANT:

- 1. The State of Karnataka.**
Represented through
Mudhol Police Station
by Public Prosecutor

(By Public Prosecutor, Mudhol)

V/s..

ACCUSED:

- 1. Ganesh Durgappa Metri (A-1)**
Age: 42 years, Occ: Media person,
R/o: Hirekeri Galli, Tq: Mudhol, Dist: Bagalkot.
- 2. Kalappa Yallowwa Metri (A-2)**
Age: 37 years, Occ: Mason,
R/o: Hirekeri, Tq: Mudhol, Dist: Bagalkot.

- 3. Anand Yallowwa Metri (A-3)**
Age: 44 years, Occ: Labourer,
R/o: Hirekeri, Tq: Mudhol, Dist: Bagalkot.
- 4. Arun Basappa Metri (A-4)**
Age: 25 years, Occ: Farmer,
R/o: Hirekeri, Tq: Mudhol, Dist: Bagalkot.

(A-1 By Shri.**S.I.H** Advocate
A-2 to 4 By Shri.**S.C.H** Advocate)

Date of Offence : 27.02.2021

Date of report of offence : 27.02.2021

Date of arrest of accused : A-1 -09.03.2021

Name of the complainant : Shekhar Mang @ Shridevi
Metri

Date of recording of evidence : 05.12.2025

Date of closing of evidence : 12.02.2026

Offence complained of : Under Sections 448, 323,
324, 307, 354, 354(B), 307,
504, 506(2) r/w 34 of Indian
Penal Code

Opinion of the Judge : Accused No-1 to 4 are not
found guilty.

: JUDGMENT :

This case arises out of charge sheet submitted by the CPI
Mudhol Police Station against the accused persons for the
offences punishable U/s 448, 323, 324, 354(B), 307, 504, 506

r/w 34 of IPC. It was submitted before Addl.Senior Civil Judge & JMFC Mudhol and registered as C.C.No.587/2021. As offence U/Sec. 307 of IPC was involved, it was committed to Court of Sessions. After committal it was registered as SC No.5036/2022 before Ist Addl. District & Sessions Court, Bagalkote sitting at Jamkhandi. After the establishment of this court, it is transferred to this court and re-numbered as SC No.10047/2025. Hence, this Court got jurisdiction to try the case.

2. The brief facts of the case of prosecution are as under:

On 27.02.2021 at about 9.50 p.m the complainant approached the SHO Mudhol P.S and lodged complaint alleging that, on 26.02.2021 at about 2.00 p.m his friend Muttu informed him that neighbor of the complainant by name Sadashiv CW-11 had obtained loan, but did not return and asked the complainant to advise CW-11 to return his amount. Accordingly complainant advised CW-11. The accused No.2 came to know about this and got angry. At about 9.00 p.m when the complainant was near bus stand accused No-2 ob-

jected the complainant for advising CW-11 to pay back the amount and abused him as 'ಬೋಸಡಿ ಮಗನೆ'. The complainant informed his mother Sridevi. CW-4 informed the mother of accused No-1 and 4 others and they assured that they will call panchayath on the next day and resolve the dispute.

3. On 27.02.2021 at about 2.30 p.m when the complainant was sleeping in his house, the accused persons criminally trespassed into their house, abused the mother of the complainant in filthy words; when the mother of the complainant enquired them as to why they had been there, the accused No-1 pulled the mother of the complainant on the floor and kicked her. When the complainant tried to rescue her, accused No-3 and 4 abused the complainant as " ಬೋಸಡಿ ಮಗನೆ" and assaulted with hands. Accused No-2 assaulted him with club. Hearing the hue and cry wife of the complainant, Saidu Metri and Parashuram Metri rescued him. Thereafter the accused Kalappa abused them as "ಬೋಸಡಿ ಮಕ್ಕಳೆ" and threatened to kill them showing club. The complainant has suffered injury over his stomach, face, left hand, left fore-arm and also scratch injuries over left fore-arm. The mother of the complainant suffered injuries over her stomach

and left knee. They went to the Government hospital, got treatment, enquired with the elders and then lodged complaint.

4. On the basis of the complaint the SHO Mudhol PS registered the case in Crime No.36/2021 for the offence punishable U/sec. 448, 323, 324, 354, 506, 506(2) r/w 34 of IPC.

5. The complainant filed another complaint alleging that the accused No-1 & 2 pulled the Saree of the mother of the complainant with intention to disrobe, accused No-1 attempted to throttle and kill her.

6. The PSI after investigation has submitted charge-sheet for the offence punishable U/sec.448, 323, 324, 354, 506, 506(2) r/w 34 of IPC.

7. The accused are on bail.

8. My learned predecessor in office has framed the charges read over and explained to them. The accused persons have pleaded not guilty and claimed to be tried. Their plea were recorded accordingly.

9. In order to prove the guilt of the accused persons the prosecution has examined in PW-1 to 15 and got marked Ex.P-1 to 16, got identified M.O-1 and closed its side. Ex.D-1

to 4 were marked through PW-5, Ex.D-5 and 6 are marked through PW-8.

10. The enquiry of the accused persons U/s 313 Cr.P.C was conducted. The incriminating statements of the witnesses were read-over and explained to the accused persons. They have denied them totally, but did not express willingness to lead defence evidence. Therefore the statement U/s 313 Cr.P.C were recorded accordingly.

11. Heard learned public prosecutor for prosecution and learned advocate for accused persons. Perused oral and documentary evidence on record.

12. In view of the charges framed against the accused persons following points arise for consideration of this court.

1. Whether the prosecution proves beyond reasonable that on 27.07.2021 at about 2.30 p.m the accused persons in furtherance of their common intention of assaulting and killing the complainant and his mother, criminally trespassed into their dwelling house and thereby committed the offence punishable U/s 448 r/w 34 of IPC?

2. Whether the prosecution proves beyond reasonable doubt that on the aforesaid date, time and place during the course of same transaction in furtherance of common intention of the accused persons they abused the complainant " ಬೋಸಡಿ ಮಗನೆ ರಂಡಿ ಮಗನೆ " and abused CW-4 " ಬೋಸಡಿ ರಂಡಿ " with intention to prevent them to break public piece or to commit any offence and thereby they have committed the offence punishable U/s 504 r/w 34 of IPC?
3. Whether the prosecution proves beyond reasonable doubt that, on the aforesaid date, time and place and during the course of same transaction, the accused No-1 to 4 in furtherance of their common intention assaulted CW-1 & 4 with hands and voluntarily caused hurt and thereby they have committed the offence punishable U/s 323 r/w 34 of IPC?
4. Whether the prosecution proves beyond reasonable doubt that, on the aforesaid date, time and place and during the course of same transaction, accused No.2 in furtherance of their common intention assaulted complainant with club and

voluntarily caused simple hurt and thereby all the accused persons have committed the offence punishable U/s 324 r/w 34 of IPC?

5. Whether the prosecution proves beyond reasonable doubt that, on the aforesaid date, time and place and during the course of same transaction, in furtherance of common intention of all the accused persons, accused No.1 and 2 assaulted CW.4, used criminal force against her with intent to outrage her modesty and with intention to disrobe her and thereby all the accused persons have committed the offence punishable U/s 354, 354(B) r/w 34 of IPC?
6. Whether the prosecution proves beyond reasonable doubt that, on the aforesaid date, time and place and during the course of same transaction, in furtherance of their common intention accused No.1 attempted to throttle CW.4 with intent to commit her murder and thereby all the accused persons have committed the offence punishable U/s 307 r/w 34 of IPC?

7. Whether the prosecution proves beyond reasonable doubt that, on the aforesaid date, time and place and during the course of same transaction, in furtherance of the common intention of all the accused persons, accused No.2 threatened CW.1 and 4 to kill them and thereby they have committed offence punishable U/s 506(2) r/w 34 of IPC?

8. What order?

13. On the basis of the oral and documentary evidence on record above raised points are answered as under:-

Point No.1: In the Negative.

Point No.2: In the Negative.

Point No.3: In the Negative.

Point No.4: In the Negative.

Point No.5: In the Negative.

Point No.6: In the Negative.

Point No.7: In the Negative.

Point No.8: As per final order for the following

:REASONS:

14. Point No.1 to 7:- Since all these points are interlinked and the same evidence has to be discussed to decide all the points, they have been taken together for discussion.

15. The allegation of the prosecution is that due to ill-will developed because of previous incident the accused persons criminally trespassed into dwelling house of the complainant, assaulted both CW.1 and 4 caused simple injuries; abused them filthy words; given life threat to them, accused No.2 assaulted CW.1 with club, accused No.1 and 2 used criminal force against CW.4 a women with intent to outraged her modesty and pulled her saree with an intention to disrobe her and accused No.1 throttled her neck and attempted to commit her murder. It is alleged that accused persons have committed the afore said offence in furtherance their common object and thereby all of them committed the above referred offences.

16. Evidence :- In order prove the guilt against the accused persons the prosecution has examined PW.1 to 15; got marked Ex.P.1 to 16; got identified MO.1. Ex.D.1 to 6 marked through prosecution witnesses in the cross examination.

17. PW-1 and 6 are the mahazar witnesses to spot mahazar and seizure mahazar. PW.2, 3 and 11 are the alleged

to the eye witnesses, PW.14 and 15 are circumstantial witnesses. PW.4 is the doctor who has examined the injured witnesses, PW.5 is the injured complainant, PW.10 is the another victim of the offence, PW.9 is the FIR carrier, PW.13 is the scribe of the complaint, PW.7, 8 and 12 are the Investigating Officers.

18. Analysis of the evidence:- The prosecution is intending to prove the guilt of the accused persons by proving i) Motive, ii) The overt-acts of the accused persons. Let us discuss them one by one.

19. Motive:- PW.3 and 15 are the witnesses, who are examined to prove the motive apart from PW.1. PW.15 says that 5-6 years back he had availed loan of Rs.50,000/- from PW.3 Muttu. Said Muttu had asked to help from CW.1 for recovery of that amount, CW.1 had asked PW.15 to repay the amount the witness also informed said fact to accused No.2 Kalappa and there was quarrel between CW.1 and accused No.2. He states that in the afternoon at about 1.30 p.m CW.1 met him and revealed that accused persons came to his house and abused and assaulted them. This witness does not states

when he had availed the loan and when CW.1 asked him to repay the same, at what time he informed the said matter to accused No.2 and at what time there was quarrel between accused No.2 and the victim. Thus his evidence lacks clarity.

20. In the cross examination para-4, page-3 PW.15 admits as under:

"ನಾನು ಬಿ.ಜೆ.ಪಿ. ಕಾರ್ಯಕರ್ತೆ ಎಂದರೆ ಸರಿ. ನಾನು ಶೇಖರ ಹಾಗೂ
ಚಾಸಾ-9 ಬಿ.ಜೆ.ಪಿ. ಕಾರ್ಯಕರ್ತರು ಎಂದರೆ ಸರಿ."

This excerpt shows that the complainant and PW.15 are the members of the same political party. Looking to the vagueness with which this witness has spoken and his admission, his evidence needs to be scrutinized more vigorously.

21. In para-3, page-2 of cross examination PW.15 states as under:

"ಘಟನೆಯ ದಿವಸ ಚಾಸಾ-1 ನನಗೆ ಮಧ್ಯಾಹ್ನ 1-30 ಗಂಟೆಗೆ ಬಸ್ಸಾಂಡ
ಹಿಂದಿನ ನಮ್ಮ ಓಣಿಯಲ್ಲಿ ಭೇಟಿಯಾಗಿದ್ದ. ಆಗ ಚಾಸಾ-1 ಇವರ

ಕುತ್ತಿಗೆಯ ಬಲಭಾಗದಲ್ಲಿ ತರೆದ ಗಾಯ ಆಗಿತ್ತು. ಆಗ ನಾನು ಅವರನ್ನು
ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಲಿಲ್ಲ. ಏಕೆಂದರೆ ಆಗ ಚಾಸಾ-9 ಅವರನ್ನು
ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೊರಟಿದ್ದೆ."

This excerpt shows that on the date of incident the complainant PW-5 (CW.1) met him in their street and at that time CW.1 had suffered open wound on the right side of his neck. the excerpt further shows that at that time CW.9 was taking CW.1 to the hospital and that is why this witness did not take him to the hospital. It is very important note here that according to PW.15 he saw PW-5 & PW-13 (CW-9) going to hospital at 1.30 p.m and by that time the incident was over. But the complainant and PW-10 the victims of the incident states that the incident occurred at about 2.30 p.m. Here the evidence of PW-5 is completely contrary to the evidence of PW-5 and 10 and the complaint Ex.P-15. When these contradictions are examined in the light of his affiliation to the party to which the PW.5 is also a member, the evidence of PW.5 becomes highly vulnerable and difficult to believe. Therefore, it is unsafe to believe his version.

22. PW.3 is the person who is said to have given loan to PW-15 and asked the complainant to get refund of it for him. But PW-3 has not supported the case of the prosecution. He denies to have known the complainant or PW.5 and denies to have given loan to PW-15. He denies to have witnessed the incident and pacified the quarrel. He was treated as hostile witness and learned public prosecutor was allowed to cross-examine him. Even in the cross-examination conducted by the learned public prosecutor nothing is extracted from the mouth of PW-3 to believe that he had lent amount to PW-15 and requested CW-1 to intervene and get refund of it, he saw the assault by the accused persons on the complainant and his mother and given statement as per Ex.P-8. Therefore nothing is there in the cross-examination to believe that, despite lending amount to PW-15 and knowing further developments and witnessing accused persons assaulting CW-1 and 4, he is telling lie either under threat or under the influence of the accused persons. Therefore his evidence will also not helpful to the prosecution in any way.

23. PW-14 is also examined in this regard, but in the examination in chief he says that he learnt from CW-1 that there was quarrel between himself and the accused No-2 regarding same transactions. He does not speak about money lent by PW-3 to PW-15 and that was the cause for quarrel between CW-1 and accused No-2, therefore his evidence will also not helping to the prosecution to prove the motive.

24. On perusal of the above evidence on record the evidence led by the prosecution is highly inconsistent and not convincing regarding the motive. Therefore, this court is of the considered opinion that the prosecution has failed to prove the motive for the offences.

25. Overt-acts of the accused persons:- PW-2, 3, 5, 10,11 and 14 are examined to prove the overt acts of the accused persons. On perusal of the evidence of PW-14 he states that at about 2.30 pm he received information that the accused persons are assaulting his sister CW-4 and his nephew CW-1 and before he went there, CW-9 (PW.13) had

taken CW-1 to the hospital and in the hospital he learnt details of the incident. He further states that, there afterwards himself and CW-1 came to the police station and CW-1 had lodged the complaint. The very examination in chief of PW-14 shows that he is not a direct witness to the incident, therefore to prove the occurrence of the incident his evidence is of no much importance, his evidence can be used only to show that CW-1 lodged the complaint.

26. As far as the occurrence of the incident is concerned, both PW-2 and 3 have not supported the case of the prosecution. They have denied that they have witnessed the accused persons coming to the house of the complainant and assaulting CW-1 and 4 i.e., PW-5 and 10. Both were treated as hostile witnesses and learned public prosecutor was allowed to cross-examine them. Even after detailed cross-examination of these two witnesses, nothing is elicited from their mouth to believe that, the incident as narrated by the prosecution, infact, occurred, these witnesses had seen the incident and tried to pacify the quarrel, but are telling lie

before the court. Therefore their evidence will not help the prosecution to prove the incident.

27. PW-5 is the injured complainant. He states that on 26.02.2021 CW-10 (PW-3) asked him to help him to get refund of loan availed by CW-11 (PW.15); he met CW-11 (PW.15) and asked him to repay the loan; on that day at about 9.00 p.m the accused No-2 abused CW-1 as "ಬೋಸಡಿ ಮಗನೆ"; objected him for his effort to get the loan refunded; on the next day at about 2.30 p.m the accused persons criminally trespassed into their house and assaulted CW-4, kicked her; and the complainant tried to intervene. He further says that at that time the accused No-3 and 4 abused him as 'ಬೋಸಡಿ ಮಗನೆ' and accused No-2 assaulted with stick, accused No-1 fisted on his stomach; CW-6 and 7 pacified the quarrel and there afterwards the accused persons abused them as 'ಬೋಸಡಿ ಮಕ್ಕಳೆ' threatened to kill them. He states that, he lodged the complaint as per Ex.p-11 and there afterwards again filed another complaint Ex.P-12. He also identifies

M.O-1 as the weapon used by the accused persons to assault him.

28. It is interesting to note that under Ex.P-12 the witness has lodged the second complaint alleging that accused No-1 & 2 outraged the modesty of his mother PW-10 and accused No-1 attempted to throttle her neck and kill her. But looking to the entire examination in chief, he has not stated anything regarding accused No-1 or accused No-2 pulling her saree or throttling her neck with an intention to outrage her modesty or with intention to kill her. He has stated nothing regarding the accused attempted to kill her by throttling her neck.

29. These are not the matter which cannot be forgotten by the son of the victim, if at all the incident had occurred in that way. This is more so because the complainant lodged the further complaint alleging these aspects on the day next to the date of the incident. This creates an impression that what all revealed in Ex.p-12

appears to be false and tailored with an intend to implicate the accused No-1 & 2 in more serious offences.

30. In the cross-examination PW.5 at para-4, page-5 admits as under:

"ನಾನು ನಮ್ಮ ಓಣಿಯಲ್ಲಿಯ ಹಿರೇತನ ಮಾಡುವುದಿಲ್ಲ."

This excerpt shows that he does not act as an elder in his area. This makes the case of the prosecution that PW-3 requested PW-5 to help him to get refund of Rs.50,000/- vulnerable and difficult to believe. In para 7 of his cross examination PW.5 admits as under:

"ನಾವು ಆಸ್ಪತ್ರೆಗೆ ಹೋದಾಗ ಸಾಯಂಕಾಲ 06.00 ಗಂಟೆಯಾಗಿತ್ತು.

ಚಾಸಾ-9 ನಮ್ಮನ್ನು ಆಸ್ಪತ್ರೆಗೆ ಮೋಟಾರು ಸೈಕಲ್ ಮೇಲೆ ಕರೆದುಕೊಂಡು

ಹೋದರು."

In this regard PW.11 says that it was 5.00 p.m. PW-15 says it was 1.30 p.m. PW-10 says it was 3.00 p.m. So here his evidence is contrary to all these witnesses. From the above discussions it appears that the witness has made efforts to

state what is not true and that makes his evidence difficult to believe.

31. PW-10 is the another victim of the offence. She also states that, when she was in her house along with CW-1, 5 and her grand-children, the accused persons came to their house, abused her in filthy words, when she objected, the accused No-1 pulled her on her saree, accused No-2 assaulted her on her left hand, she felled down, then accused/Ganapati tried to throttle her neck and tried to kill her, then accused/Kalappa kicked her, then CW-1 came there, accused No-3 and 4 assaulted him with clubs and CW-6 and 7 pacified the quarrel.

32. On careful perusal of her evidence, she does not state that accused No-2 assaulted CW-1 with club. Her evidence in this regard is contrary to the evidence of PW-5 who does not state that accused No-3 and 4 assaulted him with club.

33. Regarding place of incident :- Regarding place of incident PW-10 in the examination in chief states as under:-

“ನನ್ನ ಮನೆಯಲ್ಲಿ ನಾನು, ಚಾಸಾ-1, 5 ಹಾಗೂ ಮೊಮ್ಮಕ್ಕಳು ಇರುವಾಗ
ಮದ್ಯಾಹ್ನ 02.30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ಈಗ ನ್ಯಾಯಾಲಯದ
ಮುಂದಿರುವ ಆರೋಪಿತರು ನಮ್ಮ ಮನೆಗೆ ಬಂದರು.”

34. In the cross-examination PW.10 para-1, page-3
admits as under:

" ಆರೋಪಿತರು ಮನೆಯ ಒಳಗಡೆ ಬಂದಿದ್ದರು. ಚಾಸಾ-1 ನನ್ನ ಮಗ
ಅದೇ ಕೋಣೆಯಲ್ಲಿಯೇ ಮಲಗಿದ್ದ. ಒಳಗೆ ಬಂದ ನಂತರ ಆ
ಕೋಣೆಯಲ್ಲಿರುವ ಎಲ್ಲರೂ ಒಬ್ಬರಿಗೊಬ್ಬರು ಕಾಣಿಸುತ್ತಾರೆ ಎಂದರೆ ಸರಿ.....
ಹೊರಗಿಂದ ಯಾರಾದರೂ ನಮ್ಮ ಮನೆಯಲ್ಲಿ ಬಂದಲ್ಲಿ ಎಲ್ಲರಿಗೂ
ಗೊತ್ತಾಗುತ್ತದೆ ಎಂದರೆ ಸರಿ."

This indicates that according to PW-10 the incident
occurred inside the house. But in para-3 of the cross-
examination she states as under:

" ಆರೋಪಿತರು ನನ್ನನ್ನು ಹೊಡೆದ ಜಾಗೆ ನಮ್ಮ ಮನೆಯ ಹೊರಗಡೆ
ಇರುತ್ತದೆ. ನಾನು ಮನೆಯ ಹೊರಗಡೆಯೇ ಬಿದ್ದಿದ್ದೆ. ಆರೋಪಿ 1 ಸೀರೆ
ಹಿಡಿದು ಜಗ್ಗಿದ ಎನ್ನುವ ಘಟನೆ ಮನೆಯ ಹೊರಗಡೆ ಆಗಿದೆ. ಆರೋಪಿ 1

ನನ್ನ ಕುತ್ತಿಗೆ ಹಿಚುಕಿದ ಅಂತಾ ಹೇಳುವ ಘಟನೆ ಕೂಡ ಮನೆಯ ಹೊರಗಡೆಯೇ ಆಗಿದೆ. ಆರೋಪಿ 1 ನನ್ನ ಕುತ್ತಿಗೆಯನ್ನು ಎರಡೂ ಕೈಗಳಿಂದ ಒತ್ತಿದ. ಆರೋಪಿತರು ನನ್ನನ್ನು ಕೆಡವುವಾಗ ನಾನು ಕೂಗಾಡಿದೆ. ಆಗ ನನ್ನ ಮಗ ಮನೆಯಿಂದ ಹೊರಗಡೆ ಬಂದ."

This excerpt shows that now the PW-10 states that the entire incident has occurred outside the house. On careful perusal of this excerpts her evidence is contrary to the evidence of PW-5 regarding the place of offence. PW-5 in para-4, page-2 of his examination in chief states as under:-

“ಬಂದು ನೋಡಿದಾಗ ಈಗ ನ್ಯಾಯಾಲಯದ ಮುಂದಿರುವ 4 ಜನ ಆರೋಪಿತರು ನಮ್ಮ ಮನೆಯಲ್ಲಿ ಅತಿಕ್ರಮ ಪ್ರವೇಶ ಮಾಡಿದ್ದರು.”

Here PW-5 has specifically stated that the incident occurred inside the house. PW-10 at one juncture says that it was inside the house, later says that, it was outside the house. So regarding place of offence their evidence is highly shaky.

35. In para-3 PW-10 in her examination in chief says that, accused No-3 and 4 assaulted CW-1 with clubs. But in para-4 of the cross-examination PW.10 para-4, page-4 admits as under:

" ಆರೋಪಿ ಕಾಳಪ್ಪ ಈತನ ಕೈಯಲ್ಲಿ ಮಾತ್ರ ಬಡಿಗೆ ಇತ್ತು. ಉಳಿದವರ ಹತ್ತಿರ ಬಡಿಗೆ ಇರಲಿಲ್ಲ. ಆರೋಪಿ 1 ಕುತ್ತಿಗೆ ಹಿಚುಕಲು ಪ್ರಯತ್ನ ಮಾಡಿದ ನಂತರ ನನ್ನ ಮಗ ಮನೆಯಿಂದ ಹೊರಗೆ ಬಂದ. ನನಗೆ ಆರೋಪಿತರು ಹಲ್ಲೆ ಮಾಡಿದ್ದರಿಂದ ಎಡ ರಟ್ಟಿಗೆ, ಎರಡೂ ಕಾಲುಗಳಿಗೆ, ಹೊಟ್ಟೆಗೆ ಹಾಗೂ ಕುತ್ತಿಗೆಗೆ ಗಾಯಗಳಾಗಿದ್ದವು. ಆರೋಪಿ ಕಾಳಪ್ಪ ಹೊಟ್ಟೆಗೆ ಒದ್ದ. ನನ್ನ ಮಗನಿಗೆ ಆರೋಪಿತರು ಏನನ್ನೂ ತೆಗೆದುಕೊಂಡು ಹೊಡೆದರು ಅಂತಾ ನನಗೆ ಗೊತ್ತಿಲ್ಲ, ನಾನು ಬಿದ್ದಿದ್ದೆ."

This excerpt shows that, she does not know with which article the accused persons assaulted PW-5. Here her version in the cross examination is contrary to her examination in chief and affects her credibility adversely.

36. In the examination in chief PW-10 states that she has signed the mahazar and hand sketch map when the police visited the place of offence after the incident. Ex.P-4 is

dated 27.02.2021. Ex.P-4 and Ex.P-16 shows that the spot was shown by PW-10. Interestingly, the same PW-10 in para-6 of the cross-examination admits as under:

"ನಮ್ಮನ್ನು ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದರು. ನಾವು ಆಸ್ಪತ್ರೆ ತಲುಪಿದಾಗ ಮಧ್ಯಾಹ್ನ 03.00 ಗಂಟೆಯಾಗಿತ್ತು. ನಾನು ಎರಡು ವಾರಗಳ ಕಾಲ ಆಸ್ಪತ್ರೆಯಲ್ಲಿ ದಾಖಲಾಗಿದ್ದೆ. ನನಗೆ ಸಲಾಯಿನ್ ಹಚ್ಚಲಾಗಿತ್ತು. ಸದರಿ ಎರಡು ವಾರಗಳ ಕಾಲ ನಾನು ಆಸ್ಪತ್ರೆಯಲ್ಲಿದ್ದೆ. ಆ ಅವಧಿಯಲ್ಲಿ ನಾನು ಮನೆಗೆ ಹೋಗಿಲ್ಲ."

In this excerpt the witness states that she was admitted to hospital for two weeks after the incident and during that period she has not returned to her house.

37. It is important to note here that, the place of offence is said to be the house of the witness. If at all after she was admitted to hospital and she was there in the hospital for two weeks, she did not return to her house at all, then the version of the investigating officer and the contents of Ex.P-4 and Ex.P-16 that she shown the place of offence on 28.02.2021 i.e., the day after the date of offence becomes

unbelievable. Either the contents of Ex.P-4 and evidence of the investigating officer or the evidence of this witness can be true. Both of them cannot be true. This adversely affects the case of the prosecution itself.

38. In para-9 of the cross-examination PW-10 admits as under:

" ನಿಪಿ-13 ರಲ್ಲಿ ನಿಮ್ಮ ಬಟ್ಟೆಗಳು ಹರಿದಿದ್ದಾವೆ ಅಂತಾ ಹೇಳಿಕೆ ನೀಡಿದ್ದೀರಾ ಎನ್ನುವ ಸೂಚನೆಗೆ ಸಾಕ್ಷಿದಾರರು "ನಿಜ. ಗಡಿಬಿಡಿಯಲ್ಲಿ ಹೇಳಿದ್ದೇನೆ" ಅಂತಾ ಹೇಳುತ್ತಾರೆ. ಆರೋಪಿ 3 ಹಾಗೂ 4 ನನ್ನ ಮಗನಿಗೆ ಬಡಿಗೆಯಿಂದ ಹೊಡೆದರು ಅಂತಾ ನಾನು ಪೋಲೀಸರ ಮುಂದೆ ಹೇಳಿದ್ದೇನೆ. ಆದರೆ ನ್ಯಾಯಾಲಯದ ಮುಂದೆ ಹೇಳುವಾಗ ಗಡಿಬಿಡಿಯಲ್ಲಿ ಆ ವಿಚಾರ ಹೇಳಿಲ್ಲ."

In the above excerpt PW-10 says that she has stated in Ex.P-13 (her statement before the magistrate) that her cloths were torn in the incident. The portion of her statement is 'ನನ್ನ ಬಟ್ಟೆಗಳೆಲ್ಲ ಹರಿದಿದ್ದವು' which means all her cloths were torn. But the above excerpt shows that, she denies that her cloths were

torn on the alleged date and states that in a hurry she had said so. She further admits that regarding assault by CW-3 and 4 on her son with club she has not stated while giving her statement before the magistrate.

39. She explains that in a hurry she has stated so. If at all the statements were recorded immediately after the incident, we can believe that due to anxiety created by the incident she might have forgotten certain things, but the statement is recorded on 01.04.2021. Therefore the above versions are the flip-flops of the witness adversely affecting the credibility of PW-10 very seriously.

40. PW-11 is the wife of the complainant. She says that about 2.30 p.m herself and PW-10 were cooking at that time accused persons came there, they abused CW-1 as 'ಬೋಸಡಿ ಮಗನೆ'. When PW-10 asked as to why they came there, the accused No-2 assaulted PW-10 with club and accused No-1 abused her as 'ಠಂಡಿ'. The accused No-1 threatened her and pulled her saree. Accused No-4 assaulted her on her right

knee. She further states that when the CW-1 came out enquired, the accused No-2 assaulted him with club and accused No-1 squeezed his neck and fisted him on his stomach. Here her evidence is contrary to the evidence of PW-10 who does not state that accused No-2 assaulted her. PW-11 does not state about accused No-3 and 4 assaulting her husband which is contrary to evidence of PW-10. Her evidence is contrary to PW-5 as well as PW-10 wherein none of them have stated that the accused No-1 throttled the neck of PW-5 also.

41. P.W- 11 cross-examination at para-5, page-5 admits as under:

"ನನ್ನ ಗಂಡನಿಗೆ ಆರೋಪಿ 2 ಕಾಳಪ್ಪ ಬಡಿಗೆಯಿಂದ ಹೊಡೆದ ಬಗ್ಗೆ ಆರೋಪಿ 1 ನನ್ನ ಗಂಡನ ಕುತ್ತಿಗೆ ಹಿಚುಕಿದ ಬಗ್ಗೆ ನಾನು ಪೊಲೀಸರಿಗೆ ನೀಡಿದ ಹೇಳಿಕೆಯಲ್ಲಿ ಹೇಳಿಲ್ಲ."

This shows that, she has not stated before the police regarding accused No-2 assaulting her husband with clubs and accused No-1 throttling the neck of her husband. Even

PW-10 and 11 have also not stated in this regard. This creates an impression that, the witness is trying to make improvements in the case and this adversely affects her credibility.

42. In para-3, page-4 of the cross-examination PW-11 admits as under:

"ಆರೋಪಿತರು 02.30 ಗಂಟೆಗೆ ಬಂದಿದ್ದು 04.30 ಗಂಟೆಯವರೆಗೆ ಜಗಳ ಆಗಿದೆ. ಆರೋಪಿತರು ಬಂದು ಜಗಳ ಆರಂಭವಾದ ಕೂಡಲೇ ಪೊಲೀಸರಿಗೆ ಪೋನ ಮುಖಾಂತರ ಕರೆಯಲು ಪ್ರಯತ್ನಿಸಿಲ್ಲ."

So according to this witness the incident has occurred about 2 hours from 2.30 to 4.30. This contrary to the evidence of PW-10 who says that when they reached the hospital it was 3.00 p.m Here also it appears that the witness is trying to exaggerate the things.

43. In para-4, page-5 of the cross-examination, PW-11 states as below:

"ಚಾಸಾ-9 ನಮ್ಮ ಮನೆಗೆ ಬಂದಿದ್ದು ಮೋಟಾರು ಸೈಕಲ ಮೇಲೆ
ನನ್ನ ಗಂಡ ಹಾಗೂ ಅತ್ತೆಯನ್ನು ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದರು.
ಅವರು ಸ್ಥಳಕ್ಕೆ ಬಂದಾಗ 04.30 ರಿಂದ 05.00 ಗಂಟೆಯಾಗಿರಬಹುದು.
ನನ್ನ ಗಂಡ ಹಾಗೂ ಅತ್ತೆ ಆಸ್ಪತ್ರೆಗೆ ಹೋದಾಗ ಸಾಯಂಕಾಲ 05.00 ಗಂಟೆ
ಆಗಿರಬಹುದು."

Here the witness states that, CW-9 came to their house and took her husband (PW-5) and her mother in law PW-10 to hospital and CW-9 came there it was 4.30 to 5.00 a.m and when they went to the hospital it was 5.00 p.m. This is also contrary to the evidence of PW-15 who states that, at about 1.30 p.m he saw CW-1 injured and CW-9 was taking him to hospital. It is also contrary to the evidence of PW-10. Who in para-6 of her cross examination states as under:-

“ನಮ್ಮನ್ನು ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದರು. ನಾವು ಆಸ್ಪತ್ರೆ
ತಲುಪಿದಾಗ ಮಧ್ಯಾಹ್ನ 03.00 ಗಂಟೆಯಾಗಿತ್ತು. ”

44. In para-2, page-4 PW-11 admits as under :

" ನನ್ನ ಅತ್ತೆಯ ಎಡರಟ್ಟಿಗೆ ಅವಳು ಬಿದ್ದುದರಿಂದ ಗಾಯ ಆಗಿತ್ತು. ನನ್ನ ಅತ್ತೆಗೆ ಉಗುರಿನಿಂದ ಚೂರಿದ ಗುರುತುಗಳಾಗಿದ್ದವು. ರಕ್ತಗಾಯ ಆಗಿದ್ದನ್ನು ನಾನು ನೋಡಿದೆ. ನನಗೆ ಯಾವುದೇ ಏಟುಗಳು ಬಿದ್ದಿಲ್ಲ. ನನ್ನ ಅತ್ತೆಗೆ ಘಟನೆಯಾದ ನಂತರ ಸ್ವಲ್ಪ ಪ್ರಜ್ಞೆ ಹೋಗಿತ್ತು. ಆರೋಪಿತರು ಬಂದ ಕೂಡಲೇ ನನ್ನ ಗಂಡ ಹೊರಗಡೆ ಬಂದಿದ್ದರು."

Here she says that as PW10 fell down she had suffered injury on the left arm and there were scratch injury of nail on her. She also states that after the incident PW-10 had lost consciousness. This also contrary to the evidence of PW-5 and PW-10. They have not stated regarding PW-10 losing consciousness. The doctor has not found any scratch injuries on the PW-10. She states that, immediately after the accused persons came there house, CW-1 came out. This is also contrary to the evidence of PW-5 and 10 who states that sometimes after beginning of the incident CW-1 came out. When all these aspects are carefully analyzed, her evidence suffers very serious contradictions and improvements making her evidence difficult to believe.

45. CW-9 is examined as PW-13. He is the scribe of the complaint. He states that, on 27.02.2021 he wrote the complaint as stated by CW-1. In the cross-examination at para-1, page-2 PW-13 states that:

"ನಾನು ಪೊಲೀಸ್ ಠಾಣೆಗೆ ದೂರು ಬರೆಯಲು ಹೋದಾಗ ರಾತ್ರಿ 9 ಗಂಟೆಯಾಗಿತ್ತು. ಚಾಸಾ-1 ನನ್ನನ್ನು ದೂರು ಬರೆಯಲು ಬರುವಂತೆ ಕೇಳಿಕೊಂಡ. ನಾನು ಆಗ ಮನೆಯಲ್ಲಿದ್ದೆ. ಚಾಸಾ-1 ರವರು ನನಗೆ ಪೋನ್ ಮಾಡಿ ದೂರು ಬರೆಯಲು ಬರುವಂತೆ ಕೇಳಿಕೊಂಡರು. ದೂರನ್ನು ಬರೆಯಲು 10-15 ನಿಮಿಷ ತೆಗೆದುಕೊಂಡಿರುತ್ತೇನೆ."

The above excerpt shows that he wrote the complaint at 9.00 p.m and when he was in house CW-1 called him to write the complaint. PW-13 has not stated that he went to the house of the complainant and took them to hospital. This is contrary to the evidence of PW-5 wherein PW-5 says that CW-9 present witness took them to hospital.

46. In para-7, page-6 of the cross examination PW.5 states that:

"ನಾವು ಆಸ್ಪತ್ರೆಗೆ ಹೋದಾಗ ಸಾಯಂಕಾಲ 06.00 ಗಂಟೆಯಾಗಿತ್ತು.
ಚಾಸಾ-9 ನಮ್ಮನ್ನು ಆಸ್ಪತ್ರೆಗೆ ಮೋಟಾರು ಸೈಕಲ್ ಮೇಲೆ ಕರೆದುಕೊಂಡು
ಹೋದರು."

This is contrary to the evidence of PW-10 who para-5,
page-5 of the cross examination PW.10 states that:

"ನಾನು ಹಾಗೂ ನನ್ನ ಮಗ 02.30 ಗಂಟೆಯ ಸಮಯದಲ್ಲಿ
ಆಸ್ಪತ್ರೆಗೆ ಹೊರಟಿದ್ದೆವು, ಆಗ ಚಾಸಾ-9 ಅಲ್ಲಿಗೆ ಬಂದ. ನಮ್ಮಿಬ್ಬರನ್ನು
ಮೋಟಾರು ಸೈಕಲಿನಲ್ಲಿ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದ. ಚಾಸಾ-9
ವಕೀಲಿಕೆ ಮಾಡುತ್ತಾರೆ."

This is also contrary to evidence of PW-11 which is
already extracted above,

"ಚಾಸಾ-9 ನಮ್ಮ ಮನೆಗೆ ಬಂದಿದ್ದು ಮೋಟಾರು ಸೈಕಲ ಮೇಲೆ ನನ್ನ
ಗಂಡ ಹಾಗೂ ಅತ್ತೆಯನ್ನು ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಹೋದರು. ಅವರು
ಸ್ಥಳಕ್ಕೆ ಬಂದಾಗ 04.30 ರಿಂದ 05.00 ಗಂಟೆಯಾಗಿರಬಹುದು. ನನ್ನ
ಗಂಡ ಹಾಗೂ ಅತ್ತೆ ಆಸ್ಪತ್ರೆಗೆ ಹೋದಾಗ ಸಾಯಂಕಾಲ 05.00 ಗಂಟೆ
ಆಗಿರಬಹುದು."

When these excerpts are carefully examined, it clearly shows that the witness has some affinity towards the complainant and his family members and he is not telling the whole truth before the court. The non disclosure of himself taking the injured to hospital from their house creates an impression that the witness is not telling truth before the court and hence it becomes difficult to believe his version.

47. Medical evidence:- PW-4 is the doctor who is said to have examined injured PW-5 and 10. She states that on 27.02.2021 PW-5 and 10 appeared before her, PW-5 had suffered bruise over his stomach and PW-10 had suffered bruise over her right shoulder, left leg and left knee and stomach. She states that the injuries were simple in nature and she has issued wound certificate Ex.P-9 and 10. She states that those injuries could be caused if a person is assaulted with hands and leg or with M.O-1. In the cross-examination she admits that, she has not stated about which of the injuries in the Ex.P-9 and 10 could be caused by M.O-1. She admits that she has not examined M.O-1 and given weapon opinion.

48. On careful perusal of the evidence and Ex.P-9 and 10 the injuries are so that they cannot be ascertained unless the person reveals it. Though the witness says that with M.O-1 injuries could be caused, the above referred admission shows that she has not examined M.O-1. In **State of Himachal Pradesh vs Jai Lal** reported in **1999 (7) SC 280**, the Supreme Court opined that

“18. An expert is not a witness of fact. His evidence is really of an advisory character. The duty of an expert witness is to furnish the Judge with the necessary scientific criteria for testing the accuracy of the conclusions so as to enable the judge to form his independent judgment by the application of this criteria to the facts proved by the evidence of the case. The scientific opinion evidence, if intelligible, convincing and tested becomes a factor and often an important factor for consideration along with the other evidence of the case. The credibility of such a witness depends on the reasons stated in support of his conclusions and the data and materials furnished which form the basis of his conclusions.”

As in the present case, he has not examined the articles, therefore, his evidence in true sense loses the character of

expert opinion and hence becomes inadmissible in evidence. Therefore, though the evidence shows that PW-5 & 10 had suffered injuries on the alleged day, it does not establish that it was caused due to assault by M.O-1. The opinion of PW-4 gets reduced to an ordinary opinion losing its character of expert opinion. Thus this part of evidence becomes inadmissible in evidence. Therefore, the evidence of PW-4 will not help the court to believe that the injured persons had any visible injuries, that could be caused by M.O-1.

49. Evidence regarding investigation and alide aspects : - CW-1 & 2 are the spot mahazar witnesses. It is alleged that in their presence spot mahazar Ex.P-4 was conducted and M.O-1 was recovered as shown by PW-10. PW-1 has turned hostile. He states that he has signed on Ex.P-4, but denies that it was drawn in his presence and any article was recovered in his presence. After treating him hostile the learned public prosecutor was allowed to cross-examine him. Even in the cross-examination conducted by the learned public prosecutor the witness has not spoken anything that can help the prosecution to prove drawing up of

the mahazar in his presence and recovery of M.O-1 from the spot. Thus his evidence will not help the prosecution.

50. PW-6 is another mahazar witness. He says that, on 28.02.2021 in between 10.30 to 11.00 a.m himself and CW-3 were called near the house of CW-4. CW-4 was present there and police have prepared Mahazar Ex.P-4. CW-4 produced M.O-1 and the police have taken photos Ex.P-5 and 6 at that time. In the cross-examination PW-5 admits that he was not served with notice to appear as mahazar witness. In the examination in chief the witness has stated that CW-4 has produced M.O-1 to the police. But in the cross-examination he states that M.O-1 was laying in front of house of CW-4. Most importantly already discussed above CW-4 who is examined as PW-10 states that after admitting to the hospital she did not return to the house for about 15 days. Here the evidence of PW-6 is contrary to evidence of PW-10. Thus it becomes difficult to believe his version.

51. PW-9 is the FIR carrier constable. He states that on 23.02.2021 at about 10.15 p.m CW-19 give him original

complaint Ex.P-11 and FIR Ex.P-15 and at about 10.15 he had handed over to jurisdictional magistrate. Ex.P-15 bears the endorsement of the learned magistrate in this regard. Thus there is no reason to disbelieve the version of PW-9.

52. PW-12 is the registering officer who has conducted part of investigation also. He states that on 27.02.2021 he received MLC intimation from Government hospital Mudhol; he visited the hospital at 3.30 p.m and enquired them and asked them to lodge complaint, but they informed him that they will discuss with their elders and lodge complaint and on 9.30 p.m on that day CW-1 (PW-5) came to police station and lodged the complaint. He says that on 28.02.2021 again CW-1 came to police station and lodged additional complaint. He further states that, on the same day at about 10.00 a.m. He visited the place of offence and conducted spot mahazar as per Ex.p-4 and recovered M.O-1 and drawn hands sketch map Ex.p-16 and recorded the statements CW-4 to 9 and 11. His versions are contrary to the evidence of PW-10 who states that she was admitted in the hospital for 15 days and did not return to house till she was discharged. This creates serious

doubt about the truthfulness of evidence regarding drawing mahazar Ex.P-4 and recovery of M.O-1 at the instance of CW-4. In the cross-examination he admits as under:

"ದಿನಾಂಕ: 27 ರಂದು ಚಾಸಾ-1 ನೀಡಿದ ದೂರಿನಲ್ಲಿ ಆರೋಪಿತರು ತನ್ನ ತಾಯಿಯ ಕುತ್ತಿಗೆ ಹಿಚುಕಿದ ಬಗ್ಗೆ ಹಾಗೂ ಸೀರೆ ಹಿಡಿದು ಎಳೆದ ಬಗ್ಗೆ ನಮೂದಿಸಿಲ್ಲ ಎಂದರೆ ಸರಿ. ಆರೋಪಿ 2 ದೂರು ನೀಡಿದ ಮೇಲೆ ದೂರುದಾರರು ನಿಪಿ-12 ರಂತೆ ಹೆಚ್ಚುವರಿ ದೂರು ನೀಡಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. "

This excerpt shows that in the complaint the complainant has not stated about attempt to kill CW-4 or regarding outraging her modesty or attempt of accused persons to disrobe her at the time of lodging the complaint and after the accused No-2 lodging complaint against the present complainant Ex.P-12 was again lodged. This shows that the second complaint was lodged with an intention to implicate the accused persons in more serious offences which are triable by sessions court. Further when he went to the injured persons and enquired them at about 3.30 p.m why there was delay in registering the case is not explained. Even

if the victims were delaying lodging of complaint, being the police officer he could have explained the implications of delay and recorded the complaint or he could have registered the case on his own complaint. PW.12 does not explain why he has not opted to any of these options. He does not explain the reason for his in action. This shows the possibility of tailoring of the complaint and it adversely affects the credibility of the case of the prosecution.

53. PW-7 is the second investigating officer. He states that he arrested the accused No-1 on 09.03.2021, on 11.03.2021, he requested the doctor to give opinion regarding the injuries to CW-4 on 20.03.2021. He states that he requested the municipal corporation to issue tax assessment extract of place of offence. Except this he has not conducted any other investigation. Therefore his evidence can help the prosecution only as corroborative piece of evidence.

54. PW-8 is the third investigating officer. He speaks of collecting statement U/s 164 of Cr.P.C of CW-4, collecting wound certificate of CW-1 & 4, recording of statement of CW-

10 as per Ex.P-8, collecting the endorsement Ex.P-4(a) from the doctor, collecting 65(B) certificate from CW-16 and submission of the charge-sheet.

55. In the cross-examination PW-8 admits as under:

" ನಾನು ಪ್ರಕರಣದ ತನಿಖೆಯನ್ನು ನಾನು ವಹಿಸಿಕೊಂಡ ನಂತರ ಚಾಸಾ- 1 ಹಾಗೂ 4 ಇವರನ್ನು ಮತ್ತೆ ಆಸ್ಪತ್ರೆಗೆ ಪರಿಶೀಲನೆಗಾಗಿ ಕಳುಹಿಸಿಲ್ಲ. ಚಾಸಾ-4 ಇವರ ಪುರವಣಿ ಹೇಳಿಕೆ ಹಾಗೂ ಗಾಯದ ಪ್ರಮಾಣ ಪತ್ರ ಪಡೆದ ನಂತರವೂ ಸಹ ನಾನು ಚಾಸಾ-4 ಇವರನ್ನು ಆಸ್ಪತ್ರೆಗೆ ಕಳುಹಿಸಿಲ್ಲ. ನಿಪಿ-10 ರಲ್ಲಿ ಚಾಸಾ-4 ಇವರ ಕುತ್ತಿಗೆಯ ಮೇಲೆ ಗಾಯಗಳಾದ ಬಗ್ಗೆ ನಮೂದು ಇಲ್ಲ ಎಂದರೆ ಸರಿ."

This excerpt shows that he has not sent the CW-1 for further examination to hospital even after receiving the wound certificate. He admits that under Ex.P-10 there is no injury found on neck of CW-4. This creates an impression that the involvement of Section 307 was not seriously scrutinized by this witness. The witness admits that on the date of lodging of the complaint in the present case, accused No-2 had lodged a complaint against the CW-1 and his friends and FIR was

registered under crime No.37/2021. The said document is marked as Ex.D-5. The witness admits that he himself has submitted charge-sheet in that case, and that is marked as Ex.D-6. This creates an impression that the witness tried to play safe and submitted charge sheet in both the cases. This has also not only affects the credibility of evidence of this witness, but also the credibility of entire case of the prosecution.

56. Conclusion : - On perusal of the entire evidence on record there is delay of 6 hours in lodging the complaint. This delay is not explained by the complainant or the registering officer. Hon'ble Supreme Court in **Dilawar Singh Vs. State of Delhi** reported in **MANU/SC/3678/2007** has held that,

“where there is such delay either by the informant or the police, then the court would always view the allegations with suspicion and seek satisfactory explanation. If the court is not satisfied it would be fatal to the prosecution case.”

In the present case, there is no explanation at all. So the delay affects the credibility of the case of the prosecution very seriously.

57. Secondly, the evidence of PW-1, 10 and 11 who are prime witnesses have given different versions regarding place of offence.

Some say that it was inside the house and the other says that the incident occurred outside the house. Thus there are serious contradictions regarding place of offence. In this regard Hon'ble Supreme Court in **Syed Ibrahim Vs. State of A.P** reported in **AIR 2006 SCC 2908** has held as under:

“Four different places of occurrence indicated by said witness to be place of occurrence – Place of occurrence itself not established – Conviction of accused, not proper.”

Thus in view of ratio in **Syed Ibrahim** supra, the accused are entitled for benefit of doubt.

58. Ex.D-5(a) the complaint annexed to Ex.D-5(a) FIR show that the accused No-2 has lodged the complaint against

the CW-1 and others alleging that, the present complainant had assaulted him with knife on 26.02.2021 at about 11.00 p.m. The endorsement on Ex.P-5 says that it was registered at 10.30 p.m. It shows that the accused No-2 of this case has suffered injuries that could be caused by knife in the incident. Ex.D-6 is the charge sheet submitted in that case i.e., Crime No.37/2021. The documents wound certificate annexed to Ex.D-6 shows that the present accused No-2 had suffered injury over his left cheek. But in the present case the charge-sheet does not explain anything regarding injuries on the accused No-2.

59. It is well established law that, non explanation of the injuries on the accused creates serious doubt about the truthfulness of the case of the prosecution, infers suppression of genesis of the incident. It also infers that, if the accused explains injuries on him, his version may be true.

60. Defence of the accused : - It is the defence of the accused that on 26.02.2021 the accused No-2 was assaulted by the complainant of this case, accused No-2 was admitted

in Kubasad hospital Mudhol for treatment and under the impression that accused No-2 will lodge the case against the complainant, the complainant has filed a false case. Looking to the Ex.D-5 and 6 as per the wound certificate annexed to Ex.D-6 the accused No-2 was admitted to hospital on 27.02.2021 at about 00.10 hours i.e., early morning 00.10 hours. According to the complaint incident of present case occurred on 27.02.2021 at 2.30 p.m, and the present complaint came to be filed on 27.02.2021 at 9.15 p.m on that day. Thus the present complaint is subsequent to the admission of accused No-2 in the hospital. Further this also negates the possibility of involvement of the accused No.2 in the incident.

61. When all these aspects are collectively examined in the background of political affiliation of CW-1 the possibility of registering the false case against the complainant appears highly probable. The contradictions appearing in the evidence of PW-5, 10 and 11 regarding material aspects creates very serious doubt about the case of the prosecution. Delay in lodging complaint, filing of 2nd complaint involving more

serious offences, complainant not giving evidence on those serious aspects give fatal below to the case of the prosecution. These aspects make the defence of the accused persons that this is a false case registered only to counter the case registered under Crime No.37/2021 highly probable.

62. Looking to all these aspects, this court is of the considered opinion that the evidence of prosecution is not sufficient to prove the guilt of the accused persons beyond all reasonable doubt. _

Hon'ble Supreme Court in **Devilal Vs State of Rajsthan** reported in **(2020) 19 SCC 447** has held as under:

“Though evidence produced raises some suspicion towards accused but prosecution has failed to elevate its case from realm of 'may be true' to “must be true” as indispensably required for conviction on criminal charge. In criminal trial, suspicion, however grave, cannot substitute proof.”

In the present case, the prosecution has failed to elevate its case from “may be true” to “must be true”. So, the accused persons are entitled for benefit of doubt and

acquittal. Hence, above raised points are answered in the **NEGATIVE.**

63. Point No.8:- In view of findings on points No.1 to 7, the court proceeds to pass the following:

: ORDER :

Accused No- 1 to 4 are not found guilty of the offenses punishable U/Sec. 448, 323, 324, 307, 354, 354(B), 504, 506(2) r/w 34 of Indian Penal Code. Hence they are acquitted of those offences as per section 235(1) of Cr.P.C.

The Bail bonds of the accused persons stand canceled.

M.O-1 being worthless object shall be destroyed after the appeal period is over.

(Dictated to the Stenographer directly on computer and typed by him and corrected, signed and then pronounced by me in the Open Court on this 06th day of March-2026).

(GURURAJ G. SHIROL)
III Addl. District & Sessions Judge,
Bagalkote, sitting at Mudhol.

ANNEXURE**I. LIST OF WITNESSES EXAMINED ON BEHALF OF PROSECUTION:**

Rank	Name	Nature of Evidence
PW.1	: Gurunath R Hiralakki	Mahazar witness
PW.2	: Parashuram V Metri	Eye witness
PW.3	Muttappa G Madar	Circumstantial witness
PW.4	Dr. Shreni S Navalagi	Doctor who treated complainant and his mother
PW.5	Shekar Metri	Complainant
PW.6	Keshav Nadavinamani	Mahazar witness
PW.7	Mallikarjun Biradar	Investigating Officer
PW.8	Dinesh P Jawalkar	Investigating Officer
PW.9	Channappa S Kumbar	FIR Carrier
PW.10	Sridevi Mang @ Metri	Victim
PW.11	Roopa S Manga	Complainant wife & Eye witness
PW.12	Deepak R Kattimani	ASI who received complaint
PW.13	Manjunath Hiralakki	Scribe of the complaint
PW.14	Shrikant Mang @ Metri	Relative of the complainant
PW.15	Sadashiv Badagandi	hearsay witness

II. LIST OF EXHS MARKED ON BEHALF OF PROSECUTION:

- Ex.P.1 : Report of CW.13(FIR carrier)
Ex.P.2 : Report of C.W-14 (65B)
Ex.P-3 : Report of C.W-16 (65B)
Ex.P-4 : Spot Mahazar
Ex.P-4(a) : Signature of PW.1
Ex.P-4(b) : Signature of PW.6
Ex.P-4(c) : Signature of PW.10
Ex.P-5 & 6 : Photographs at spot mahazar
Ex.P-7 : Statement of PW.2
Ex.P-8 : Statement of PW.3
Ex.P-9 : Wound certificate of Sridevi Metri
Ex.P-10 : Wound certificate of Shekar Metri
Ex.P-11 : Complaint dated:27.02.2021
Ex.P-11(a) : Signature of PW.5
Ex.P-11(b) : Signature of PW.13
Ex.P-12 : Complaint dated 28.02.2021
Ex.P-12(a) : Signature of PW.5
Ex.P-13 : 164 statement of Sridevi Metri
Ex.P-14 : Requisition letter to Doctor
Ex.P-14(a) : Doctor opinion on Ex.P.14
Ex.P-15 : FIR
Ex.P-16 : Rough sketch of spot
Ex.P-16(a) : Signature of PW.10

III. LIST OF WITNESSES EXAMINED ON BEHALF OF DEFENCE:

Ex.D-1 to 4 : Photographs
Ex.D-5 : FIR in Crime No.37/2021
Ex.D-5(a) : Signature of PW.12
Ex.D-6 : Charge-sheet in Crime No.37/2021
of MDL PS.
Ex.D-6(a) : Annexures of Ex.D-6

IV. LIST OF M.O MARKED ON BEHALF OF PROSECUTION:

M.O-1 : Club (ಬಡಗಿ)

**Sd/-
(GURURAJ G. SHIROL)
III Addl. District & Sessions Judge,
Bagalkote, sitting at Mudhol**