



**IN THE COURT OF I ADDITIONAL DISTRICT
& SESSIONS JUDGE AT CHIKKAMAGALURU**

Dated this the 2nd day of April, 2026

: PRESENT :

Smt. BHANUMATHI. B.C., B.A.L.,L.L.B.

I Addl. District & Sessions Judge
Chikkamagaluru

Sessions Case No.145/2024

Complainant:

State by Tarikere Police

(Represented by Special
Public Prosecutor,
Chikkamagaluru)

V/s

Accused:

1. Nagaraja T.R
S/o late Revanna T.S,
Aged about 65 years,
R/at Kodicamp, Tarikere
Town, Tarikere Taluk.
2. Raghu, S/o Nagaraj T.R,
Aged about 40 years,
R/at Kodicamp, Tarikere
Town, Tarikere Taluk.
3. Prakasha
S/o Shankarappa H.N,
Aged about 35 years,
R/at Hadikere Village,
Kasaba Hobli,
Tarikere Taluk.
4. Ravi K, S/o late Krishnappa,



Aged about 49 years,
R/at Basaveshwara street,
Behind Government Hospital,
Tarikere taluk.

(Represented by Sri.HS, Adv)

TABULATION OF THE EVENTS

1	Date of commission of offence	03.07.2023
2	Date of report of offence	03.07.2023
3	Date of arrest of accused	- -
4	Date of release of accused	- -
5	Name of the complainant	Santhosh Kumar S/o late Puttasanka
6	Offences for which the accused have been charged	Sections 447, 427 and 114 of Indian Penal Code r/w section 34 of said Code.
7	Date of registration of the case	18.12.2024
8	Date of commencement of recording evidence	18.03.2026
9	Date of closing of recording evidence	25.03.2026
10	Date of judgment	02.04.2026



11	Opinion of the Judge	The charges leveled against the accused are not established
12	Duration of the case	Year/s Month/s Day/s 01 03 15

(BHANUMATHI. B.C.)
I Addl. District & Sessions Judge
Chikkamagaluru

JUDGMENT

The present case arise out of the charge sheet submitted by the Deputy Superintendent of Police, Tarikere Sub-Division, Tarikere in Crime No.167/2023 on the file of Tarikere police station and having committed by learned Senior Civil Judge and Prl. JMFC, Tarikere, the accused herein are facing trial for the offences punishable under sections 447, 427 and 114 of Indian Penal Code r/w section 34 of said Code (hereinafter referred as 'IPC' for brevity).

2. In a nutshell, case of the prosecution is that on 03.07.2023 at about 9.30 p.m, accused No.1 to 4 trespassed on the land bearing Sy.No.213 of Haliyuru village belonging to CW.1-Santhosh Kumar and arecanut garden bearing Sy.No.212 which was in possession of said Santhosh Kumar situated at Haliyuru Village, Tarikere Taluk and accused No.1 to 3 abetted accused No.4 to destroy the crop grown by CW.1 with JCB and on their instigation, accused No.4 damaged the crops in the aforesaid lands with the help of JCB and caused damage to the tune of Rs.20,000/- to CW.1 and thereby they committed



aforesaid offences.

3. According to prosecution on 03.07.2023, pursuant to complaint lodged by PW.1-Santhosh Kumar, CW.9-Krishna Naik K, who then worked as Sub-Inspector of Police at Tarikere station registered case against accused in Crime No.167/2023 for the offences punishable under sections 447, 427 and 114 r/w section 34 of IPC. After completing investigation, CW.11-Halamurthy Rao V.S, who then worked as Deputy Superintendent of police, Tarikere Sub-Division submitted charge sheet against accused for aforesaid offences before the learned Senior Civil Judge and Prl. JMFC, Tarikere, who in turn took cognizance of the aforesaid offences, secured the presence of accused and furnished prosecution papers to them in compliance of provisions. Though the offences alleged against the accused are triable by the Magistrate, the case has been committed to the Court of Sessions as the same is the counter case of the case in Spl.C No.125/2023, which is pending on the file this court. After registering the sessions case, the Hon'ble Prl. District and Sessions Judge, Chikkamagaluru has made over the case to this court for disposal in accordance with law.

4. It is seen from the record that during crime stage, the accused appeared before the committal court and obtained regular bail. They have been represented by the counsel of their choice.

5. By securing the presence of accused, the matter was heard before charge and as there were sufficient materials to presume that the accused might have committed the alleged offences, this court framed charge against them for the offences punishable under



sections 447, 427 and 114 of IPC and the accusation was read over and explained to the accused and they pleaded not guilty and claimed to be tried.

6. In order to prove the guilt of accused, the prosecution has examined three witnesses as PW.1 to PW.3 and got exhibited 08 documents as Ex.P1 to Ex.P8.

7. The RTC extracts (02 in numbers) issued by CW.6-Shekhara Naik, the Sheristedar, Taluk office, Tarikere are marked in the evidence of prosecution with the consent of learned counsel for accused as Ex.P8.

8. In the case on hand, the material witnesses, who are supposed to depose about the acts alleged on the part of the accused have turned hostile and not supported the case of prosecution. Hence, the examination of CW.2 and CW.3, who are cited as panch witnesses to the mahazar and CW.8 to CW.11, the police officials, who are supposed to depose about their formal acts regarding registration of FIR, drawing of mahazars, arrest of accused, collection of documents pertaining to the place of alleged occurrence etc., was dropped by rejecting the prayer of Public Prosecutor as no purpose would have been served by examining them.

9. The examination of accused as required under section 351 of BNSS is dispensed with as no incriminating material against the accused is brought out in the evidence of prosecution witnesses.

10. Heard arguments of both side and carefully analyzed the oral and documentary evidence placed on record.



11. The points that arise for the consideration of this court are:

POINTS

- 1] Whether the prosecution proves beyond reasonable doubt that on 03.07.2023 at about 9.30 p.m, accused No.1 to 4 trespassed the land bearing Sy.No.213 of Haliyuru village belonging to CW.1-Santhosh Kumar and arecanut garden bearing Sy.No.212 which was in possession of said Santhosh Kumar situated at Haliyuru Village, Tarikere Taluk within the jurisdiction of Tarikere police station with an intention to commit crime and thereby they committed an offence punishable under section 447 of IPC?
- 2] Whether the prosecution proves beyond reasonable doubt that on the aforesaid date, time and place, at the instigation of accused No.1 to 3, the accused No.4 damaged the crops grown by CW.1 in the aforesaid lands with the help of JCB and caused damage to the tune of Rs.20,000/- to him and thereby accused No.4 committed an offence punishable under section 427 of IPC?
- 3] Whether the prosecution proves beyond reasonable doubt that on the aforesaid date, time and place, accused No.1 to 3 abetted accused No.4 to destroy the crop grown by CW.1 with JCB and thereby they committed the offence punishable under section 114 of IPC?
- 4] What order?



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

Point No.1 to 3: In the negative,

Point No.4: As per final order
for the following:

REASONS

13. **Point No.1 to 3:** These points are taken together for discussion in order to avoid repetition of facts and evidence as these points are inter connected with each other.

14. The case of prosecution is that on 03.07.2023 at about 9.30 p.m, accused No.1 to 4 trespassed on the land bearing Sy.No.213 of Haliyuru village belonging to CW.1-Santhosh Kumar and arecanut garden bearing Sy.No.212 which was in possession of said Santhosh Kumar situated at Haliyuru Village, Tarikere Taluk and accused No.1 to 3 abetted accused No.4 to destroy the crop grown by CW.1 with JCB and on their instigation, accused No.4 damaged the crops in the aforesaid lands with the help of JCB and caused damage to the tune of Rs.20,000/- to CW.1 and thereby they committed aforesaid offences.

15. As stated above, in order to bring home the guilt of accused for the aforesaid offences, the prosecution has examined three witnesses as PW.1 to PW.3 and got exhibited 08 documents as Ex.P1 to Ex.P8.

16. Ex.P1 is complaint, Ex.P2 is FIR, Ex.P3 is mahazar, Ex.P4 is photograph, Ex.P5 is further statement of PW.1, Ex.P6 and Ex.P7 are statements of PW.2 and PW.3 respectively, Ex.P8 are RTC extracts (02 in numbers).



17. As stated above, the criminal law was set into motion on the basis of first information reported by CW.1-Santhosh Kumar as per Ex.P1 and he is examined as PW.1. PW.1 deposed that no harm was caused to him by the accused and he had not lodged any complaint against the accused at any point of time. As PW.1 admitted his signatures in the complaint, FIR and the mahazar said to have been conducted by the police at the place of alleged occurrence as shown by him, those documents came to be marked as Ex.P1 to Ex.P3 respectively for the sake of convenience, but he has stated that he had affixed those signatures at Tarikere police station at the say of police. He further stated that he is not aware of the contents of those documents and the purpose for which said signatures were taken. As PW.1 admitted his presence in the photograph said to have been taken by the police during aforesaid mahazar, said photograph came to be marked as Ex.P4, but he has stated that he is not aware of the purpose for which it was taken.

18. From the perusal of evidence of PW.1 given in his examination-in-chief, it is clear that he had given a clear go bye to the case of prosecution and not supported its case to any extent. Hence, PW.1 has been subjected to detailed cross-examination by the learned Special Public Prosecutor by declaring him as hostile, but nothing favourable to the case of prosecution could be elicited in his cross examination as he has denied all the allegations made against the accused and asserted that he did not give any complaint as per Ex.P1 against them and nothing favourable to the case of prosecution regarding drawing of aforesaid mahazar at his instance could be elicited from him. Thus, PW.1 has not supported any



of the allegations leveled against the accused and also denied the lodgment of complaint as per Ex.P1 and also asserted that he did not give further statement to the police as per Ex.P5. Hence, evidence of PW.1 is not available for the prosecution to establish its case.

19. PW.2-Swamy and PW.3-Pundalika Rao are cited as eyewitnesses to the incident in question. They too turned hostile and not supported the case of prosecution to any extent. PW.2 and PW.3 have been subjected to detailed cross-examination by the learned Special Public Prosecutor by treating them hostile, but nothing favourable to the case of prosecution could be elicited from them. Per contra, they denied all the allegations leveled against accused and asserted that they did not give any statement to the police as per Ex.P6 and Ex.P7 respectively regarding the incident in question. Hence, the evidence of PW.2 and PW.3 is also not available to the prosecution to bring home the guilt of accused.

20. As recapitulated in the proceeding paragraphs, PW.1 to PW.3, the so-called informant and eyewitnesses to the alleged incident are the material witnesses to depose about the acts alleged on the part of the accused, but they have totally retracted from their previous version and not supported any of the allegations leveled against accused. Under these circumstances, a question that crops up for consideration is whether the evidence of CW.2 and CW.3, who are cited as panch witnesses to the mahazar and CW.8 to CW.11, the police officers, who are supposed to depose about the formal acts regarding registration of FIR, drawing of mahazars, arrest of accused, collections of documents pertaining



to the place of alleged occurrence etc., per se would be sufficient to believe the case of prosecution and to hold the accused guilty of alleged offences.

21. In this context, in my humble opinion, this court has to fall back on the provision laid down in section 55 of Bharatiya Sakshya Adhiniyam 2023, which makes it very clear that the oral evidence must be direct. In other words, if the evidence refers to a fact, which could be seen, it must be evidence of a witness who says he saw it and if the fact refers to a fact which could be heard, then it must be the evidence of a witness who says he heard it, then only it becomes direct evidence.

22. By keeping in mind the scope of section 55 of Bharatiya Sakshya Adhiniyam 2023, I have carefully perused the material placed on record and what CW.2, CW.3, CW.8 to CW.11 are supposed to depose, but they are not supposed to say anything that they were present at the spot when the incident took place and witnessed the same. Therefore it becomes clear that they are not eyewitnesses to incident and their evidence is not direct with regard to the acts alleged on the part of accused. Hence their evidence would not have helped the prosecution to connect the accused with the charges leveled by it.

23. Thus in the instant case, PW.1 to PW.3, who are cited as informant and eyewitnesses are the material witnesses to depose about the allegations leveled against accused, but they have completely retracted from their previous version and not supported the theory of prosecution to any extent. The evidence made available on record is not sufficient to connect the accused with the charges leveled by the



prosecution. Hence, this court is constrained to hold that the prosecution has miserably failed to bring home the guilt of accused. Accordingly, I answer **point No.1 to 3 in the negative.**

24. In the facts and circumstances of the case, it is to be noted that PW.1, who is cited as victim has not supported the case of prosecution as required under Clause 6(3) and Clause 7 (10) of Karnataka Victim Compensation Scheme, 2011 and therefore he is not entitled to any compensation.

25. **Point No.4:** In the light of above findings, I proceed to pass the following:

ORDER

By acting under section 258(1) of BNSS, accused No.1 to 4 are acquitted of the offences punishable under sections 447, 427 and 114 of Indian Penal Code and they are set at liberty.

Bail bonds executed by the accused and their sureties stand canceled. However, the bail bonds secured in compliance of section 481 of BNSS shall be in force for a period of six months from today.

No order as to compensation.

(Dictated to Stenographer Grade-III directly on computer and computerized by her, script corrected and then signed by me on this the 2nd day of April, 2026)

(BHANUMATHI. B.C.,)
I Addl. District & Sessions Judge
Chikkamagaluru



ANNEXURE

List of witnesses examined on behalf of prosecution:

PW.1 Santhosh Kumar
PW.2 Swamy
PW.3 Pundalika Rao

List of documents exhibited on behalf of prosecution:

Ex.P1 Complaint
Ex.P1(a) Signature
Ex.P2 FIR
Ex.P2(a) Signature
Ex.P3 Mahazar
Ex.P3(a) Signature
Ex.P4 Photograph
Ex.P5 Further statement of PW.1
Ex.P6-7 Statements of PW.2 and PW.3
Ex.P8 RTC extracts (Two in numbers)

List of witness examined on behalf of defence:
Nil

List of documents marked on behalf of defence:
Nil

List of material objects:
Nil

(BHANUMATHI. B.C.)
I Addl. District & Sessions Judge
Chikkamagaluru