

KADG010008862024



Presented on : 15-03-2024
Registered on : 15-03-2024
Decided on : 02-05-2026
Duration : 2 years, 1 months, 18 days

**IN THE COURT OF
II ADDL DISTRICT AND SESSIONS JUDGE DAVANGERE
AT DAVANGERE,
(Presided Over by SRI. PRAVEEN KUMAR.R.N)**

SC NO. 40/2024

COMPLAINANT:

State by Badavane Police Station,
Davanagere

// Vs //

ACCUSED;

Vinay H P S/o Prakash H P,
Age: 39 years, R/o: 743/1, 10th main,
6th Cross, PJ Extension, Davanagere.

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State represented through Public Prosecutor
Accused represented by LADC (K.K.)
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Date of commission of offence 02/01/2024
Date of report of offence 02/01/2024
Name of the complainant Smt Dr. Praveen Sharma
Date of arrest & release of Accused is on court bail.

accused.

Date of commencement of trial	28/04/2025
Date on which the evidence was closed	21/02/2026
Offences alleged	U/sec. 504, 323, 324, 354, 506, 307 of IPC
Opinion of the judge	Accused found not guilty for the above said offences, as per final order.

JUDGMENT

The Extension Police have registered a case against the accused for the offences punishable under Sections 354(B), 506, 307, 323, and 324 of the Indian Penal Code, and upon completion of the investigation, the Investigating Officer has filed the charge sheet for the above offences.

2. The brief facts of the prosecution's case are as follows:

According to the prosecution, CW-2 and the accused are brothers, and the informant is the wife of CW-2. They are all residing in the same house situated at 6th Cross, PJ Badavane, Davanagere. Further, according to the prosecution, on 02-01-2024 at about 1.45 p.m., while the informant was feeding her baby and showing rhymes on the television, the accused suddenly switched

off the TV. When the informant questioned him about the same, the accused started quarrelling with her and assaulted her with his fist on her right ear. He also swung a machete at her three times with an intention to commit her murder.

3. Further, according to the prosecution, at that time, the informant sustained injuries on her right rib cage, and when the accused again attempted to assault her with the machete, CW-2 intervened and caught hold of the machete, due to which he sustained injuries on his right palm. Further, it is alleged that at that time, the accused abused the informant, outraged her modesty, and also threatened her with dire consequences. On these grounds, the informant lodged the complaint against the accused.

4. After the filing of the complaint, the Station House Officer registered the case against the accused and commenced the investigation. During the course of investigation, she visited the scene of occurrence and prepared the spot mahazar and also recovered certain incriminating materials. She recorded the statements of relevant witnesses. Further, the Investigating Officer sent the incriminating materials to the Forensic Science Laboratory and obtained the wound certificates of the injured witnesses, as well as the FSL report. Meanwhile, the Investigating Officer secured the custody of the accused and remanded him to judicial custody.

Thereafter, upon completion of the investigation, she filed the charge sheet against the accused for the aforesaid offences.

5. After filing of the charge sheet, the Committal Court took cognizance of the offences and committed the case to the Court of Sessions, as the offences are exclusively triable by the Court of Sessions. Thereafter, the case was made over to this Court for trial. This Court issued notice to the jail authorities to produce the accused, and accordingly, the accused was produced before the Court. Legal assistance was provided to him. Thereafter, this Court framed charges against the accused, which were read over and explained to him in the Kannada language. The accused pleaded not guilty and claimed to be tried. Meanwhile, he was released on bail.

6. Thereafter, the prosecution commenced its evidence and examined eight witnesses as P.W.-1 to P.W.-8 and got marked 32 documents as Exhibits P-1 to P-32, along with material objects MO-1 to MO-4. After completion of the prosecution evidence, the statement of the accused under Section 313 of Cr.P.C. was recorded, and the incriminating evidence appearing against him was read over and explained. The accused denied all such incriminating evidence, both oral and documentary, and did not offer any

explanation. He did not choose to enter the witness box, nor did he examine any witnesses on his behalf.

7. Thereafter, this Court heard the arguments advanced by both sides. Upon considering the facts and circumstances of the case, as well as the submissions made by both parties, the following points arise for consideration:

- 1) Whether the prosecution proves beyond all reasonable doubt that the accused committed the offence punishable under 354,, 504, 506, 307, 323, and 324 of IPC?
- 2) What order ?

8. My answer to the above points are as under :-

- | | |
|------------|---|
| Point No.1 | : In the Negative |
| Point No.2 | : As per final order for the following; |

REASONS

9. **Point No.1** :- The prefatory facts of the prosecution case have already been set out in the inception of the judgment. Hence, I do not wish to repeat the same once again. According to the prosecution, the accused, in order to commit the murder of the informant, assaulted her with a machete, issued life threats, abused her, and also outraged her modesty. On the face of it, it appears that serious offences have been alleged against the accused. It is a

settled principle of law that when serious offences are alleged, a heavy burden lies upon the prosecution to prove its case beyond all reasonable doubt by adducing cogent and reliable evidence.

10. During the course of arguments, the learned Public Prosecutor contended that the prosecution has proved the guilt of the accused beyond all reasonable doubt. He submitted that at the outset, the informant had fully supported the case of the prosecution in her examination-in-chief and had clearly deposed as to how and in what manner the accused committed the offences. He further contended that the cross-examination of the informant was not conducted on the same day, and subsequently, she did not support the case of the prosecution. However, he argued that this by itself is not a ground to extend the benefit of doubt to the accused. He further submitted that though some of the witnesses examined by the prosecution did not support its case, the Investigating Officer has fully supported the prosecution case, and the Medical Officer has also corroborated the same. It is further contended that when the examination-in-chief of the informant is duly corroborated by the medical evidence, it would not be proper to disbelieve the same and extend the benefit of doubt to the accused. On these grounds, he prayed for conviction of the accused.

11. Per contra, the learned counsel appearing for the accused argued that the prosecution has utterly failed to prove the guilt of the accused beyond all reasonable doubt. He contended that the accused, the informant, and other witnesses examined by the prosecution are closely related to each other, and no such offence has taken place as alleged. He further contended that it is not proper to base a conviction solely on the examination-in-chief of the informant. He submitted that all the material witnesses examined by the prosecution have not supported its case, and even the informant, during her cross-examination, has not supported the prosecution version. He further contended that in the absence of cogent and reliable evidence on record, the benefit of doubt must necessarily go in favour of the accused. On these grounds, he prayed for acquittal of the accused of all the charges.

12. On perusal of the prosecution materials, in order to prove the guilt of the accused, the prosecution has examined the following witnesses:

- P.W.-1 is the informant and victim;
- P.W.-2 is another injured witness, who is the husband of the informant;
- P.W.-3 to P.W.-6 are the eyewitnesses and circumstantial witnesses; P.W.-7 is the Investigating Officer; and
- P.W.-8 is the Medical Officer.

13. It is a settled principle of law that, in the criminal justice delivery system, the testimony of an injured witness is accorded significant importance. Now, I would like to consider one of the injured witnesses, namely the informant of the case, who has been examined by the prosecution as P.W.-1. On perusal of her examination-in-chief, she has testified that on the date of the incident at about 01.45 p.m., while she was feeding her child and had switched on the television, the accused switched off the same and started abusing her. She further testified that at that time, the accused assaulted her on her right eye with his fist and also dragged her. She further deposed that at that time her husband, as well as her father-in-law and mother-in-law, attempted to pacify and stop the accused.

14. She further testified that thereafter the accused picked up a machete which was lying in the garden and, stating that he would commit her murder, attempted to assault her on her head. She further deposed that at that time her husband, in order to rescue her, intervened and prevented the accused, and in that process, he sustained injuries on his palm. She further testified that she also sustained injuries on the left side of her ribs as well as on her left hand. She further stated that at that time the accused also threatened her with dire consequences. Thus, according to this

witness, on the date of the incident, initially the accused abused and outraged her modesty, and thereafter, in order to commit her murder, picked up a machete and attempted to assault her. At this stage, it appears that there are no grounds to suspect the testimony of this witness, and the same appears to be natural and consistent. Further, at this stage, on perusal of Exhibit P-1, which is the complaint lodged by this witness, it is seen that similar facts have been stated therein, namely that on the date of the incident, the accused initially switched off the television, and when questioned by the informant, he started abusing her and, with an intention to commit her murder, picked up a machete and assaulted her. It is further stated in the complaint that when her husband intervened to stop the accused, he also sustained injuries. It is also mentioned that during the said incident, the accused abused and threatened her with dire consequences. Thus, at this stage, it is seen that the examination-in-chief of this witness is duly corroborated by the contents of Exhibit P-1.

15. Further, the record discloses that in her further examination-in-chief, she has testified that after lodging the complaint, the police visited the scene of occurrence, prepared the spot mahazar, and recovered the machete. She has also stated that thereafter she gave her statement before the learned Judicial Magistrate. Thus, at

this stage, there appear to be no circumstances to disbelieve or reject the testimony of this witness.

16. However, on perusal of her cross-examination conducted by the defence, it is evident that she has not supported the case of the prosecution. At that stage, she has deposed that the accused did not commit the offence as stated by her in her examination-in-chief. She further stated that she was not aware of the contents of Exhibit P-1. The record further discloses that the learned Public Prosecutor treated this witness as hostile and cross-examined her at length; however, nothing material could be elicited from her. During such cross-examination, she has stated that the accused did not commit any offence either against her or against her husband. Thus, it is clear that this witness has not supported the case of the prosecution during her cross-examination, both by the defence as well as by the prosecution.

17. It is contended by the learned Public Prosecutor, both during the course of trial and at the time of arguments, that though this witness supported the prosecution case in her examination-in-chief, her cross-examination was not conducted on the same day, and subsequently she did not support the prosecution case; therefore, her examination-in-chief deserves to be relied upon. At

this stage, it appears that there is some substance in the said contention. Nevertheless, it is pertinent to note that after the examination-in-chief of this witness, this Court found that the accused was not in a proper state of mind and appeared to be suffering from some mental illness. Accordingly, this Court directed that he be provided with medical treatment, and thereafter the cross-examination was conducted. Thus, it is evident that the cross-examination was not deferred at the instance of the defence, but due to procedural reasons.

18. In this context, on an overall appreciation of the entire evidence of this witness, this Court is of the opinion that it would not be safe to arrive at a conclusion regarding the guilt of the accused solely on the basis of the testimony of this witness. Though it is true that the medical evidence supports the examination-in-chief of this witness, at this stage it would not be proper to rely solely upon the examination-in-chief of the informant along with the medical evidence to record a finding of guilt, unless the evidence of the other witnesses examined by the prosecution is also duly appreciated.

19. Now, according to the prosecution, P.W.-2, who is the husband of the informant, also sustained injuries at the time of the

alleged incident. However, on perusal of the examination-in-chief of P.W-2, it is seen that he has not supported the case of the prosecution. During his examination-in-chief, he has testified that the accused did not commit any offence either against him or against his wife, and that the accused neither assaulted, abused, nor threatened them, nor outraged the modesty of his wife. He has further stated that he is not aware of the material objects recovered by the police and that he has not given any statement against the accused. Thus, it is clear that during his examination-in-chief, this witness has not supported the case of the prosecution.

20. Further, the record discloses that the learned Public Prosecutor treated this witness as hostile and cross-examined him, putting suggestions that during the course of the incident, the accused assaulted his wife, abused her, outraged her modesty, and threatened her life. The record shows that this witness has denied all such suggestions. He has also denied the suggestion that during the course of the incident he sustained injuries and that he had given any statement to the police. Thus, it is evident that even during the cross-examination by the prosecution, this witness has not supported the case of the prosecution.

21. Further, the record reveals that the prosecution has examined the father-in-law and mother-in-law of the informant, as well as the neighbours, as P.W.3 to P.W.6. The record shows that all these witnesses have also not supported the case of the prosecution during their examination-in-chief. They have all testified that the accused did not commit any offence against the informant or P.W.2. They have further stated that the accused did not assault, abuse, threaten, or outrage the modesty of the informant, nor did he assault her with a machete. They have also stated that they did not give any statements to the police. Thus, it is clear that during the course of their examination-in-chief, all these witnesses, namely P.W.3 to P.W.6, have not supported the case of the prosecution.

22. Further, the record shows that the learned Public Prosecutor treated these witnesses as hostile and cross-examined them at length. However, he was unable to elicit anything material from their evidence. Even during their cross-examination, these witnesses did not support the case of the prosecution and denied all the suggestions put to them by the Public Prosecutor. Thus, at this stage, one thing is clear: except for the examination-in-chief of P.W.1, none of the other evidence adduced by the prosecution supports its case.

23. Therefore, merely on the basis of the examination-in-chief of the informant, coupled with the medical evidence and the testimony of the Investigating Officer, it would not be proper to hold that the accused has committed the alleged offences, particularly when all other material witnesses have not supported the case of the prosecution.

24. It is true that in certain circumstances, the Hon'ble higher courts have held that conviction can be based on the sole testimony of an injured witness. However, in the present case, when the informant herself has not supported the prosecution case in her cross-examination, and when all the material witnesses have turned hostile, it would not be safe to base a finding of guilt solely on her examination-in-chief.

25. Thus, upon appreciation of the entire oral and documentary evidence on record, it is evident that there is no cogent and reliable evidence available to convict the accused for the alleged offences. In other words, the prosecution has utterly failed to prove the guilt of the accused beyond all reasonable doubt. Accordingly, Point No. 1 is answered in the negative.

26. Point No.2:- In view of my findings on Point No.1, I proceed to pass the following;

ORDER

Acting U/Sec.235(1) of Cr.P.C., the accused is acquitted for the offence punishable U/section 354, 323, 324, 504, 506 and 307 of the Indian Penal Code.

The bail bond and surety bond stand canceled.

M.O.1 is confiscated to the state after appeal period.

M.O.2 to 4 are worthless, hence ordered to be destroyed after appeal period.

(Dictated to the Stenographer directly on the computer, corrected, signed and then pronounced by me in the open court this the 2nd day of May, 2026)

Sd/-
(Praveen Kumar R.N.)
II Addl. District & Sessions Judge
Davanagere

ANNEXURE**LIST OF WITNESS EXAMINED FOR PROSECUTION :**

P.W..1	Dr. Praveena Sharma
P.W..2	Dr. Vivek
P.W..3	Prakash
P.W..4	Kumar
P.W..5	Prakash
P.W..6	Sheelaganga
P.W..7	Malavva

P.W..8 Dr. Vedamurthy

LIST OF EXHIBITS MARKED FOR THE PROSECUTION:

Ex.P.1	Complaint
Ex.P.2	Panchanama
Ex.P.3 to 7	Photographs
Ex.P.8	164 Statement
Ex.P.8	Seizure panchanama
Ex.P.9	Statement of P.W.2
Ex.P.10	Statement of P.W.3
Ex.P.11	Statement of P.W.4
Ex.P.12	Statement of P.W.5
Ex.P.13	Statement of P.W.6
Ex.P.14	FSL report
Ex.P.15	Speciman Seal
Ex.P.16	65B certificate
Ex.P.17	FIR
Ex.P.18 & 19	Notice issued to pancha witness
Ex.P.20	CD
Ex.P.21	Requisition
Ex.P.22	Acknowledgment
Ex.P.23	Wound certificate of P.W.1
Ex.P.24	Wound Certificate of P.W.2
Ex.P.25	Requisition
Ex.P.26	Opinion issued by C.W.9
Ex.P.27	Covering letter

Ex.P.28 Khata Extract
Ex.P.29 & 30 P.W.1 and 2 Blood group report
Ex.P.31 Memorandum
Ex.P.32 Report

LIST OF WITNESS EXAMINED FOR DEFENCE :- Nil.

LIST OF EXHIBITS MARKED FOR DEFENCE :- Nil.

LIST OF MATERIAL OBJECTS MARKED FOR PROSECUTION :-

M.O.1 Machete
M.O.2 Cloth Bag
M.O.3 Chudi top
M.O.4 Cloth Bag

Sd/-
II Addl. District & Sessions Judge
Davanagere