

KADG320011412023



Presented on : 13-07-2023
Registered on : 17-07-2023
Decided on : 24-04-2026
Duration : 2 years, 9 months, 11 days

**IN THE COURT OF
II ADDL. CIVIL JUDGE AND JMFC HARIHAR,
AT HARIHAR**

**Presided Over by SMT. JYOTI ASHOK PATTAR
(B.E., LL.B.)**

Prl. Civil Judge & JMFC, Harihar.

(C/c of II Addl. Civil Judge & JMFC, Harihar)

C.C. No.670/2023

Dated this 24th day of April, 2026

Complainant:

State by Malebennur Police Station
Malebennur.

Vs.

Accused:

1. Gadigeaiah S/o Late. Ujjinayya,
Age: 44 years, Agriculturist,
2. Smt. Pushpa W/o Gadhigeyya,
Age: 35 years, Housewife,

Both are R/o: Kommaranahalli village,
Harihar Taluk, Davanagere.

For Complainant : Ld. APP
For Accused No.1 and 2: Sri. M.C.N., Advocate

JUDGMENT

The Malebennur P.S. has filed the final report against the accused No.1 and 2 for the offences punishable U/Sec. 448, 504, 323 and 506 R/w Sec.34 of IPC.

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

That on 26.11.2022 at 07.30 a.m the accused persons started quarreling with CW.1 regarding parking of vehicles and trespassed into house of CW.1. At that time the accused persons scolded CW.4 in filthy language and assaulted CW.1 with their hands and put life threat to them. Thereby accused No.1 and 2 committed offences punishable U/Sec. 448, 504, 323 and 506 R/w Sec.34 of IPC.

3. The CW.1 has set the law into motion by giving first information to Malebennur Police Station. Pursuant to first information the CW.9 has registered a case in Cr.No.222/2022 for the offences punishable U/Sec. 504, 323, 448 and 506 R/w Sec. 34 of the Indian Penal Code against the accused persons and after completing the investigation filed the final report against the accused persons for the offences punishable U/Sec. 448, 504, 323 and 506 R/w Sec.34 of the Indian Penal Code.

4. After filing the final report, this Court took cognizance of the offences punishable U/Sec. 448, 504, 323 and 506 R/w Sec.34 of IPC. Accused No.1 and 2 secured through summons and enlarged on bail and copy of final report and other documents of prosecution were supplied to them in compliance of Sec.207 Cr.P.C. The charge is framed, same is read over and explained to the accused No.1 and 2. The accused No.1 and 2 pleaded not guilty and claimed to be tried.

5. In order to prove the guilt of the accused No.1 and 2 the prosecution has examined 6 witnesses as PW.1 to PW.6 and got marked 8 documents as per Ex.P.1 to Ex.P.8. Ex.P.1 is the complaint, Ex.P.2 is the spot mahazer, Ex.P.3 is the sketch, Ex.P.4 is the photo, Ex.P.5 is the F.I.R., Ex.P.6 is the mahazer notice, Ex.P.7 is the 65(B) certificate and Ex.P.8 is the House list register.

6. The Statement of the accused No.1 and 2 are recorded. The accused No.1 and 2 denied the incriminating material available in the evidence of the prosecution witnesses against them and has not lead any defense evidence. However got marked Ex.D.1 i.e., a photo on confrontation through PW.4.

7. Heard arguments of Ld. APP and the Ld. counsel for defense.

8. On the basis of the final report allegations, oral and documentary evidence adduced by the prosecution and on hearing and on perusal of the materials on record, the following points arise for this Court determination:

1. Whether the prosecution proves beyond all reasonable doubt that, on 26.11.2022 at 07.30 a.m the accused persons in furtherance of their common intention started quarreling with CW.1 regarding parking of vehicles and trespassed into house of CW.1 and thereby the accused persons have committed an offence punishable U/Sec.448 R/w Sec.34 of IPC?
2. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date, time, place and situation, the accused persons abused CW.4 in filthy language and thereby accused persons have committed an offence punishable U/Sec.504 R/w Sec.34 of I.P.C?
3. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date, time place and situation, accused No.2 assaulted CW.1 with her hands and caused simple injuries to CW.1 and thereby accused persons have committed an offence punishable U/Sec.323 R/w Sec. 34 of I.P.C?

4. Whether the prosecution further proves beyond all reasonable doubt that, on the above said date, time place and situation the accused persons put life threat to CW.1 and CW.4 with dire consequence and thereby committed an offence punishable U/Sec.506 R/w Sec. 34 of I.P.C?
5. What order?

9. Court findings on the above points are 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 : As per the final order,
for the following;

REASONS

10. Point No.1 to 4 : These points are interlinked to each other, hence these points are taken together for discussion to avoid the repetition of facts. In order to prove the guilt of the accused No.1 and 2 for the alleged offences the prosecution has examined 6 witnesses i.e. PW.1 to PW.6 and got marked Ex.P.1 to Ex.P.8.

11. That the CW.1 is examined as PW.1, who being the complainant deposed that, on 26.11.2022 at about 07.30 a.m the accused No.1 parked his bike in front of her

house, when her husband CW.4 asked the accused No.1 regarding the same, the accused No.1 scolded her husband in filthy language. At that time she had taken her husband inside to the house, then the accused persons entered into their house dragged her husband and scolded them in filthy language. At the same time the accused No.2 assaulted her by hands and the accused persons also put life threat to them. Then on 29.11.2022 she has lodged complaint against the accused persons as per Ex.P.1. Thereafter the police visited the spot on 30.11.2022, drawn mahazer as per Ex.P.2 and took photograph as per Ex.P.4. Thereby supported the case of prosecution. But the complainant being an interested witness her testimony is not reliable unless it is corroborated by other oral and documentary evidence on record.

12. That the CW.3 is examined as PW.4, who is a mahazer witness deposed that he has signed Ex.P.2 and Ex.P.3 i.e., spot mahazer and sketch on 26.11.2022 at the time of drawing-up mahazer by the police regarding quarrel took place between CW.1 and accused persons. Even though PW.4 has supported the prosecution case his evidence establishes only a fact of visit of the spot by the police. But the burden to prove the guilt of the accused persons is remains the same on prosecution.

13. That the CW.4 is examined as PW.3 and CW.5 is examined as PW.2, who are the eye witnesses deposed the following version of CW.1/PW.1 and thereby supported the prosecution case. It is pertinent to note that the CW.4 is the husband of the CW.1 and CW.5 is their daughter, therefore the CW.4/PW.3 and CW.5/PW.2 are also interested witnesses, therefore their testimony is not reliable unless it is corroborated by other independent oral and documentary evidence on record.

14. The CW.6 is examined as PW.5, who is an independent eye witness deposed that about 2 years back at Kommaranahalli village in front of CW.4's house quarrel took place regarding parking of a bicycle. At that time he and his father resolved the quarrel. But the witness has not stated anything about the alleged offences and thereby turned partly hostile to the prosecution case. Nothing is elicited in in his cross-examination by the Ld. APP in support of prosecution case. In the cross-examination by Ld. Counsel for accused it is elicited that he has no personal knowledge about the incident. And the testimony of this witness is not corroborative with that of the testimony of interested witnesses. Therefore the evidence of this witness is no avail to the prosecution case to establish the guilt of the accused persons.

15. That the CW.9 is examined as PW.6, who is an investigation officer deposed about registering case, submitting FIR as per Ex.P.5, drawing-up mahazer as per Ex.P.2, drawing up sketch as per Ex.P.3, obtaining photographs as per Ex.P.4, recording statements of CW.4 to CW.6, issuance of notice to the accused persons U/Sec.41-A Cr.P.C., receiving 65(B) certificate as per Ex.P.7, obtaining spot document as per Ex.P.8 and submitting final report against accused persons. That the PW.6 being an investigation officer is supposed to support the prosecution case. Hence, the evidence of PW.6 is not reliable unless it is corroborated by other independent witnesses.

16. It is pertinent to note that from the prosecution evidence it reveals that the complainant and accused persons are close relatives and having civil dispute regarding the family properties and often there were quarrels between them. The CW.1, CW.4 and CW.5 are interested witnesses deposed following the version stated in Ex.P.1 i.e., complaint. In the case on hand the only an independent witness is CW.6 who is examined as PW.5, but as discussed above the CW.6/PW.5 has not stated anything about the alleged offences in his examination-in-chief. And in his cross-examination it is elicited that he has no personal knowledge about incident. Moreover the statements of the witnesses and their examination-in-

chief are not intact with each other. Therefore there is no corroboration in the prosecution evidence.

17. It is pertinent to note that the incident took place on 26.11.2022 at about 07.30 a.m, but the complaint is lodged on 29.11.2022 at 07.30 p.m, therefore 3 days delay in lodging the complaint. But the reason stated in the complaint and FIR are not corroborative with that of the reason stated by the interested witnesses in their evidence. And admittedly the accused persons have also lodged a complaint against the CW.1 and CW.4. Under such circumstances there arises doubt in respect of commission of alleged offences.

18. It is pertinent to note that the CW.1/PW.1 in her cross-examination stated that she has not sustained any injury in the incident and also has not taken any treatment. And there is no material on record to show that the CW.1 and CW.4 were sustained with simple injuries in the alleged incident. Moreover no specific facts are elicited from the mouth of CW.1, CW.4 and CW.5 regarding utterance of words, how, in what circumstances, by what means, who has assaulted the CW.1 and CW.4 by the prosecution. Therefore there is no corroboration in the prosecution evidence. Thus there arises doubt in respect of commission of alleged offences.

19. That from the evidence it reveals that there is grudge between the complainant and accused persons regarding the family properties and often there were quarrels. Under such circumstances there is very likely hood of exchange of heat-words. So, that doesn't mean that the accused persons have assaulted the complainant. Hence, in the absence of necessary ingredients of the alleged offences, evidence of independent witnesses and the corroborative of such evidence with that of material objects, it creates doubt in the mind of the Court in respect of commission of offences by the accused persons. Moreover, the PW.1 to PW.3 are interested witnesses and their evidence cannot be considered in the absence of any other corroborative evidence by the independent witness. Thus, in the absence of cogent evidence, recovery of material objects and establishing its nexus with the accused persons, the accused persons cannot be held guilty only on the basis of evidence of interested witnesses. Thus, the evidence lead by the prosecution creates doubt in respect of commission of alleged offences.

20. Thus as discussed above the prosecution utterly failed to build a chain of events by establishing facts, recovering material objects and leading cogent evidence. Hence, the accused persons are entitled to benefit of doubt. It is a cordial principle of law that once the doubt

arises in the mind of the Court that, every benefit of doubt should go in favour of the accused persons. Hence, the prosecution has failed to prove the guilt of the accused persons beyond all reasonable doubt. Hence, by extending the benefit of doubt, the accused persons are entitled for acquittal. Hence, Point No.1 to 4 answered in the Negative.

21. Point No.5 : In view of the above discussion and findings given on the above points, this Court proceed to pass the following:

ORDER

Accused No.1 and 2 found not guilty for the offences punishable U/Sec. 448, 504, 323 and 506 R/w Sec.34 of the Indian Penal Code.

By acting under section 248(1) of Cr.P.C, accused No.1 and 2 are hereby acquitted of the offences punishable U/Sec. 448, 504, 323 and 506 R/w Sec.34 of the Indian Penal Code.

The bail bond and surety bond of the accused No.1 and 2 executed in compliance of Sec.437-A of Cr.P.C., are

hereby ordered to be canceled after completion of appeal period.

(Directly dictated to the Stenographer on computer typed her, corrected and then pronounced in the Open Court on this the 24th day of April, 2026)

(Jyoti Ashok Pattar)
C/c II Addl. Civil Judge & JMFC.,
Harihar.

ANNEXURE

Witnesses examined on behalf of Prosecution:

PW.1	Savitha
PW.2	Suvarna M.K.
PW.3	M. Karibasaiah
PW.4	Sachin
PW.5	Jagadeeshaiah
PW.6	M.Fairoz Khan

Witnesses examined on behalf of Defense:

- NIL -

Documents exhibited by the Prosecution:

Ex.P.1	Complaint
Ex.P.2	Spot mahazer
Ex.P.3	Sketch
Ex.P.4	Photo
Ex.P.5	F.I.R.
Ex.P.6	Mahazer notice
Ex.P.7	65(B) certificate
Ex.P.8	House list register

Documents exhibited by the Defense:

Ex.D.1 Photo

Material objects marked:

- NIL -

**C/c II Addl. Civil Judge & JMFC.,
Harihar.**