

**IN THE COURT OF CIVIL JUDGE & JMFC,
KUNDAGOL**

PRESENT

Smt. Gayatri.

B.Com.,LL.M.(IPR)

Civil Judge & JMFC, Kundagol

Dated this the 10th day of April, 2026

C.C. No.143/2019

Complainant : The State of Karnataka
Represented by
Gudageri Police Station

[By: Assistant Public Prosecutor]

-V/s-

Accused :

1. Abdulrahiman S/o. Babajan Mulla
Age: 45 years, Occ: Agriculture.
2. Nissarahmed S/o. Babajan Mulla
Age: 43 years, Occ: Agriculture.
3. Munaf @ Munafsab
S/o. Babajan Mulla
Age: 48 years, Occ: Agriculture.
4. Mahammedgouse
S/o. Babajan Mulla
Age: 56 years, Occ: Agriculture.
5. Mansurahmed S/o. Babajan Mulla
Age: 40 years, Occ: Agriculture.
6. Inusali @ Vinusali
S/o. Munaf @ Munafsab Mulla
Age: 20 years, Occ: Agriculture.

7. Sadiq S/o. Mahammedgouse Mulla
Age: 21 years, Occ: Coolie.
8. Hashamatabi @ Hasamabegam
W/o. Babajan Mulla
Age: 75 years, Occ: Household.
9. Shaheera @ Saharabanu
W/o. Nissarahmed Mulla
Age: 38 years, Occ: Household.
10. Afrin @ Saharabanu
W/o. Abdulrehaman Mulla
Age: 38 years, Occ: Household.
11. Rahamatabi @ Rahamatabi
W/o. Mansurahmed Mulla
Age: 30 years, Occ: Household.
12. Shaheera @ Saharabanu
W/o. Munaf @ Munafsab Mulla
Dead
13. Shaheera
W/o. Mahammedgouse Mulla
Age: 48 years, Occ: Household.

All are

R/o. Kalasa, Tq: Kundagol.

[By: Sri. G.B.S., Advocate]

Date of occurrence of offence : 18.05.2018

Date of report of offence : 18.05.2018

Name of the first informant : Ajamsab
S/o. Bashasab Mulla

Date of commencement of recording evidence : 09.10.2024
Date of closing of evidence : 23.12.2025
Offences complained of : U/Sec.143, 147, 148, 323, 324, 341, 504, 506 R/w Sec.149 of IPC.
Opinion of the Judge : **Accused persons found not Guilty**

Sd/-
(Smt. Gayatri)
Civil Judge & JMFC.,
Kundagol.

JUDGMENT

The Assistant Sub-Inspector, Gudageri Police Station has submitted Charge Sheet against Accused No.1 to 13 for offenses alleged U/Sec.143, 147, 148, 323, 324, 341, 504, 506 R/w Sec.149 of IPC.

2. The brief averments of Prosecution case are as under:

On 18.05.2018 at about 6.00PM within the jurisdiction of Gudageri Police Station, Kalasa village, in front of Complainant's house on public road, due to dispute in respect of the backyard of Complainant's house, all the Accused persons formed an unlawful assembly and committed riot with Complainant.

Accused persons abused Complainant in filthy language and wrongfully restrained C.W-1 from moving further. Further, Accused No.1 with the help of stick and Accused No.2 to 7 with their hands started hitting and kicking the Complainant. At that time C.W-4 and C.W-5 came to pacify the quarrel. The Accused persons hit C.W-4 and 5 with their hands and abused them in filthy language and also held life threat to them. Hence, the Complainant after getting treatment from Gudageri Primary Health Care has lodged the Complaint against Accused persons for alleged offences. The I.O., after investigation of alleged offences finding prima-facie grounds has submitted Charge Sheet against the Accused No.1 to 13 for offenses punishable U/Sec.143, 147, 148, 323, 324, 341, 504, 506 R/w Sec.149 of IPC.

3. On 28.06.2018 Accused No.1 to 13 voluntarily appeared before this Court and got enlarged themselves on bail. Thereafter, this Court after registering Criminal case against Accused persons in Register no. III has took cognizance for the above said offenses and issued summons to Accused persons.

4. Prosecution materials as required U/Sec.207 of Cr.P.C. were furnished to Accused persons. During the trial Accused No.12 reported dead. Hence, case against Accused No.12 abated.

5. Charge was framed and read over to the Accused No.1 to 11 and 13 in Kannada language, they pleaded not guilty and claimed to be tried.

6. Prosecution has cited 10 witnesses and examined all of them as C.W-1 to 7, 9, 10 and 8 as P.W-1 to 10. Produced 12 documents got them marked as Ex.P1 to 12.

7. Statement of Accused No.1 to 11 and 13 under Section 313 Cr.P.C. was framed and read over to Accused persons, they denied it and submitted no defense to lead.

8. Heard the arguments of the learned APP and learned counsel for Accused persons and perused the oral and documentary evidence available on record.

9. The points those arise for the consideration of this Court is as hereunder:

POINTS	
1	Whether the prosecution beyond all reasonable doubt proves that, on 18.05.2018 at about 6.00PM in Kalasa village, in front of Complainant's house on public road all the Accused persons by their act of forming unlawful assembly in prosecution of common object of committing offence have thereby committed an offence punishable U/Sec.143 r/w Sec.149 of IPC?

2	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, all the Accused persons by their act of using force in prosecution of their common object to commit offence of rioting have thereby committed an offence punishable U/Sec.147 r/w Sec.149 of IPC?
3	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, Accused No.1 being a member of an unlawful assembly was armed with a stick and thereby Accused No.1 has committed an offence punishable U/Sec.148 r/w Sec.149 of IPC?
4	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, Accused No.2 and 7 by their act of beating by hands and kicking with legs to C.W-1 have thereby committing an offence punishable U/Sec.323 r/w Sec.149 of IPC?
5	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, Accused No.1 being the member of unlawful assembly by his act of beating C.W-1 with stick has thereby committed an offence punishable under Section 324 r/w Section 149 of IPC?
6	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, the Accused No.8 to 13 by their act of beating C.W-4 have thereby committed an offence punishable U/Sec.323 r/w Sec.149 of IPC?

7	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, all the Accused No.1 to 13 by their act of beating C.W-5 by their hands have thereby committed an offence punishable under Sec.323 r/w Section 149 of IPC?
8	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, all the accused persons being the members of unlawful assembly by their act of wrongfully restraining C.W-1 from moving further have thereby committed an offence punishable U/Sec.341 r/w Sec.149 of IPC?
9	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, all the accused persons being the member of unlawful assembly by their act of scolding C.W-1 in filthy language have thereby committed an offence punishable U/Sec.504 r/w Sec.149 of IPC?
10	Whether the prosecution further beyond all reasonable doubt proves that, on the said date, time and place, all the accused persons being the members of unlawful assembly by their act of threatening Complainant with dire consequences have thereby committed an offence punishable U/Sec.506 r/w Sec.149 of IPC?
11	What order?

10. This Court's finding on the above mentioned points is as follows:

Point No.1 to 10 : In the **Negative**,
Point No.11 : As per final order,
for the following:

REASONS

11. Points No.1 to 10:- For the facts and circumstance of the case are concern these points are interlinked and to avoid the repetition of facts these points are taken up together for common discussion.

12. The Prosecution in order to discharge burden casted upon it has examined the Complainant as P.W-1. The Complainant in his chief has deposed about the fact that, the C.W-2 and 3 are his villagers. C.W-4 is his wife. C.W-5 is his son. C.W-6 to 8 are neighbors. He has deposed that, the Accused No.1 to 3, 8 to 11 present before Court and Accused No.4 to 7 and 13, who were absent and dispensation application by learned counsel for Accused as to no dispute of identity of Accused was filed along with Accused No.12 died pending proceedings are his relatives. He has deposed that, on 18.05.2018 about 05.00 PM at the time when he was in home, Accused No.1 came to his house and informed that, property belongs to them and thereby all of a sudden started to beat him with a stick. It was informed by P.W-1 that, it is the property belonging to

them. By the time P.W-1 informed Accused No.1 that the property belongs to them the Accused No.1 along with his brothers, wife and other family members started to beat him. He has requested them not to beat. C.W-4 and 5 came to rescue him. But Accused persons told them that, why you came to rescue P.W-1. It was informed by C.W-4 and 5 to Accused persons that, by virtue of they being the same locality persons have come to rescue the Complainant. At that time the Accused persons have informed P.W-1 that, you are saved today due to the intervention of C.W-4 and 5 and have threatened him of dire consequences. P.W-1 has also deposed that, at the time C.W-6 to 8 came to pacify the quarrel. The Accused persons have beaten them. P.W-1 has deposed about the fact of C.W-4 and 5 getting treatment in Primary Health Care Center, Gudageri and thereafter lodging complaint against Accused persons. He has identified complaint, through him it was marked as Ex.P1 and his signature as Ex.P1(a).

13. Learned APP by treating P.W-1 partially hostile has cross-examined P.W-1 in detail. P.W-1 during the cross-examination P.W-1 has admitted all the suggestions those suggested by learned APP as true. P.W-1 has identified wooden stick during cross-examination and through him it was marked as M.O-1.

14. Learned counsel for Accused persons has cross-examined P.W-1 in detail in a manner to elicit the fact of existence of civil dispute between the parties. It is admitted by P.W-1 that, there is a civil dispute between parties which has resulted in multiplicity of civil suits between the parties. P.W-1 has denied the suggestion that, it is a false complaint lodged by him against the accused persons in order to coerce and bring force on the accused persons to come for compromise as false. Learned counsel for Accused has got marked the further statement given by Complainant before police as to his son getting treatment in home which was denied by him as Ex.D1 and the relevant portion as Ex.D1(a).

15. C.W-2 and 3 pancha witnesses are examined by prosecution as P.W-2 and 3. P.W-2 and 3 have turned hostile to the prosecution case. Learned APP cross-examined P.W-2 and 3 but nothing helpful to prosecution case has been elicited from the mouth of P.W-2 and 3. Learned counsel for Accused persons has cross examined P.W-2 and 3, wherein these two witnesses have admitted the fact of existence of civil dispute between the parties.

16. C.W-4, the injured wife of C.W-1 was examined by prosecution as P.W-4. P.W-4 in her chief-examined has deposed about the alleged act of accused

persons beating her husband with stick. She has also deposed about the fact of accused persons beating her along with her son at the time when they came to rescue C.W-1. This witness was also partly treated as hostile and was cross-examined by learned APP. P.W-4 has admitted all the suggestions those suggested by learned APP. Though in a criminal case the evidence deposed by injured has a vital role to play. But not in case where there exists a civil dispute between parties and that has took a colour of criminal proceedings between the parties.

17. Learned counsel for Accused persons has cross-examined P.W-4 in detail in a manner to elicit the fact that, there exists civil dispute between the parties which is admitted by her as true. She has also admitted the criminal proceedings between themselves and accused which has reached further extent and are only on the back drop of civil dispute between the parties. She has denied the suggestion that, she in order to force the accused persons for compromise is deposing false as false. She has also denied the suggestion that, she in order to grab the property from the hands of accused is deposing in accordance to the false complaint lodged by her husband as false.

18. C.W-5 to 8, eye witnesses are examined by prosecution as P.W-5 to 7 and 10. P.W-5 is the son of

Complainant. P.W-5 has deposed in his chief by supporting Complainant's case. But, however, has also deposed about the fact of existence of civil dispute between the parties. P.W-5 has deposed about the fact of Accused No.1 hitting P.W-1 on his head with stick. According to P.W-5, P.W-1 sustained severe blood injuries on head. He has also deposed that, himself along with his mother came to rescue his father. But Accused persons have beaten them by their hands. It was Accused No.8 to 13, who beaten C.W-4 and 5. He has deposed that, due to intervention of C.W-6 to 8 Accused persons by scolding them in filthy language have threatened them of dire consequences. He has also deposed about the fact of C.W-1 and 4 visiting Gudageri Government Hospital and thereafter P.W-1 lodging complaint against Accused persons. He has identified M.O-1.

19. Learned counsel for Accused persons has cross-examined P.W-5 in detail. Wherein, it is clear that, there is a civil dispute between parties. He has denied the suggestion that, he in order to bring force on Accused persons is deposing false by supporting complainant as false.

20. P.W-6, 7 and 10 have turned hostile to prosecution case. Learned APP with the lieu of Court has cross-examined P.W-6, 7 and 10 in detail. The

suggestions those suggested by learned APP to these witnesses was denied by them as false. There is nothing helpful evidence deposed by these witnesses to the prosecution case.

21. C.W-9 doctor was examined as P.W-8. Doctor has deposed about the fact of C.W-1 visiting Gudageri Primary Health Care Center on 18.05.2018 around 7.00PM along with C.W-4. The injuries found on P.W-1 were swelling present over frontal part of the head with minor bleeding, small multiple scratches over palmar aspect of left forearm. The injuries found were simple in nature and the age of the wounds on the given date were about 1 to 2 days old. He has identified wound certificate, through him it was marked as Ex.P5 and his signature as Ex.P5(a).

22. The another patient C.W-4 also visited Gudageri Primary Health Care Center on 18.05.2018 around 7.00PM along with C.W-1 with injuries swelling with minor bleeding present over right and left frontal part of the head. After general physical examination it was found that, the injuries were simple in nature and the age of wounds on the given date were about 1 to 2 days old. He has identified the wound certificate and through him it was marked as Ex.P6. His signature was marked as Ex.P6(a).

23. Learned counsel for Accused persons cross-examined P.W-8 in detail. Wherein, the witness has admitted the suggestion that, the injuries sustained by C.W-1 and 4 were simple in nature. It is also admitted by the witness that, there are every chances and possibilities of a person sustaining injuries as sustained by C.W-1 and 4 if suppose a person false down on a hard surface as true.

24. The Investigating Officer C.W-10 was examined as P.W-9. P.W-9 has deposed about the fact of C.W-1 visiting Gudageri Police Station on 18.05.2018 at about 7.45PM to lodge a complaint against Accused persons for alleged offences. He has deposed about the fact of he registering an FIR under Crime No.48/2018 for offence under Section 143, 147, 148, 323, 324, 341, 504, 506 r/w Section 149 of IPC. He has deposed about the fact of he recording the statement of C.W-4 to 8. He has also deposed about the fact of seizure of wooden stick on 19.05.2018 which was produced by C.W-1 in the presence of C.W-2 and 3. P.W-9 has deposed about the fact of conducting panchanama of alleged spot in the presence of C.W-2 and 3 from 9.15AM to 10.15AM. On the same date he has recorded further statement of C.W-1.

25. P.W-9 has deposed about the fact of he receiving the wound certificate of C.W-1 and 4. He has

also deposed that, on 19.05.2018 he has collected property extract of alleged spot from PDO, Kalasa Village. The Accused No.1 to 13 appeared before him on 28.06.2018 by getting an anticipatory bail from Hon'ble District and Sessions Judge, Dharwad. He has further deposed about the procedure followed by him and on 04.10.2018 he after completing investigation finding prima-facie grounds to file charge sheet has done so on the said date.

26. He has identified his signature on Ex.P1, through him it was marked as Ex.P1(b). He has identified his signature on Ex.P2 and it was marked as Ex.P2(c). He has identified his signature on Ex.P7, 5 and 6. Through him they were marked as Ex.P7(a), Ex.P5(b) and Ex.P6(d). He has identified 4 property extracts and through they were marked as Ex.P8 to 11. Hand sketch was marked as Ex.P12. The signature of witness on Ex.P8, 9 and 12 were marked as Ex.P8(a), 9(a) and 12(a). He has identified M.O-1. He has also identified the Accused persons.

27. Learned counsel for Accused persons has cross-examined P.W-9 in detail. Wherein, P.W-9 has admitted the fact of P.W-1 in his complaint mentioning about the fact of existence of civil dispute between parties. He has denied the suggestion of he not receiving any complaint and not recording any

statement of witnesses as false. He has denied the suggestion that, he has not collected property extracts from concerned authority as false. He has also denied the suggestion that, the wound certificate collected by him from doctor are false wound certificates only to support the false complaint lodged by the Complainant as false.

28. C.W-1 examined by Prosecution as P.W-1 has partly turned hostile. P.W-4 and 5 are the wife and son of P.W-1. They are relative witnesses. P.W-6, 7 and 10 though are the eye witnesses have deposed about the fact of existence of civil dispute between parties and moreover these witnesses have turned hostile to prosecution case.

29. The P.W-1, 4 and 5 have deposed about the fact of Accused persons scolding them in filthy language. But however they have not stated the particular words used by the Accused persons to scold them.

30. The doctor P.W-8 has deposed about the fact that, the injuries sustained by P.W-1 and 4 on his examination was found that, they were sustained one to two days back. According to Complainant Accused persons beated him on 18.05.2018. The Complainant visited hospital on 18.05.2018 but according to the

evidence of doctor the injuries were sustained by the injured persons much before the alleged incident.

31. On careful perusal of the Complainant and the oral evidence available on the file of this Court, it is clear that, there are Civil disputes between the family of Complainant and Accused person. It is very much clear that, the present Complaint has been filed by the Complainant against the Accused persons only under the guise of Civil disputes pending between the both the families. However, there cannot be a Criminal case under the back drop of Civil disputes. This Court relying upon the decision of Hon'ble Bombay High Court (Division Bench) in "**Ramesh V/s State of Maharashtra & Anr. Criminal Application No. 2810 of 2021**",

The Hon'ble Court by relying upon the decision M. Suresh & Ors. Vs State of Andhra Pradesh & Anr. Wherein the Hon'ble Supreme court observed that process of criminal law cannot be present into service merely for settling a civil dispute when no offence is committed. Further, reliance was placed upon the case of Chandran Ramaswami vs K.C. Palanisamy & Ors. 2 wherein the Hon'ble Supreme court has observed that there is

an impression that civil law remedies are time- consuming and do not adequately protect the interests of lenders/creditors. Therefore, it is the duty and obligation of the criminal court to exercise a great deal of caution in issuing the process, particularly when matters are essentially of civil nature.

The Hon'ble High Court of Bombay has further has opined that when there is the use of criminal law in the backdrop of civil disputes and when the proceedings are initiated with an ulterior motive, it amounts to abuse of process of law.

32. In view of above discussion it is clear that, there is no evidence available on record to hold that, the Accused No.1 to 11 and 13 have committed the offences alleged against them by the Prosecution. Hence, without further discussion this Court proceeds to answer these Points accordingly.

33. Point No.11:- As per the above discussion on Point No.1 to 10 are concerned, this Court holding Accused persons have not committed any offenses as alleged by the prosecution against them. Hence, this Court proceeds to pass the following:-

ORDER

Acting under section 248(1) of Cr.P.C. Accused No.1 to 11 and 13 are hereby Acquitted for the offenses punishable U/Sec.143, 147, 148, 323, 324, 341, 504, 506 R/w Sec.149 of IPC.

The Accused No.12 reported dead pending proceedings. Hence, case against Accused No.12 is abated.

The Bail Bond and Surety Bonds of Accused No.1 to 11 and 13 stands cancelled.

Accused No.1 to 11 and 13 are set at liberty forth-with.

[Dictated to the Stenographer directly on computer and typed by him. Corrected and then pronounced by me in the Open Court on this the **16th day of April, 2026**]

(Smt. Gayatri)
Civil Judge & JMFC.,
Kundagol.

ANNEXURE**1. List of witnesses examined for the Prosecution:**

P.W-1 : Ajamsab S/o. Bashasab Mulla
P.W-2 : Rafiksab
S/o. Hajaresab Chandakhanavar

- P.W-3 : Parasappa S/o. Fakkirappa Narti
P.W-4 : Haseenabanu W/o. Ajamsab Mulla
P.W-5 : Jilani S/o. Ajamsab Mulla
P.W-6 : Govindappa S/o. Bheemappa Hallikeri
P.W-7 : Shivamurteppa S/o. Tippanna Baraker
P.W-8 : Dr. Izaj S/o. Abutalim Parade
P.W-9 : Kallanagouda
S/o. Veeranagouda Siddanagoudar
P.W-10 : Babajan
S/o. Hasanasab Khatalasabanavar

2. List of documents exhibited for the Prosecution:

- Ex.P1 : Complaint
Ex.P1(a) : Signature of P.W-1
Ex.P1(b) : Signature of P.W-9
Ex.P2 : Spot Panchanama
Ex.P2(a) : Signature of P.W-2
Ex.P2(b) : Signature of P.W-3
Ex.P2(c) : Signature of P.W-9
Ex.P3 : Statement of P.W-6
Ex.P4 : Statement of P.W-7
Ex.P5 : Wound certificate
Ex.P5(a) : Signature of P.W-8
Ex.P5(b) : Signature of P.W-9
Ex.P6 : Wound certificate
Ex.P6(a) : Signature of P.W-8
Ex.P6(b) : Signature of P.W-9
Ex.P7 : Copy of First Information Report
Ex.P7(a) : Signature of P.W-9
Ex.P8 : Copy of handwritten RTC
Ex.P8(a) : Signature of P.W-9
Ex.P9 : Copy of handwritten RTC
Ex.P9(a) : Signature of P.W-9
Ex.P10-11: RTC's
Ex.P12 : Copy of hand sketch
Ex.P12(a) : Signature of P.W-9

3. List of witnesses examined for the Accused:**-NIL-****4. List of documents exhibited for the Accused:****-NIL-****5. List of Material object marked for Prosecution:**

M.O-1 : Wooden stick

Sd/-

(Smt. Gayatri)Civil Judge & JMFC.,
Kundagol.
