

KAHS510019262016



Presented on : 30-12-2016
Registered on : 30-12-2016
Decided on : 25-06-2026
Duration : 9 years, 5 months, 26 days

IN THE COURT OF I ADDL. CIVIL JUDGE AND JMFC., BELUR

Present:-

Smt. Salma A.S.,

B.B.A., LL.B.,(Hons)

I Addl. Civil Judge and JMFC., Belur.

Dated this, the 25th day of June, 2026

CC No.1014/2016

1. State of Karnataka
by Arehalli Police,
Belur Taluk, Hassan District.

.....Complainant

(By-Assistant Public Prosecutor)

Versus

1. Nagarathnamma W/o Nagaraju A.N.
Aged about 50 years,
R/o Anugatta village, Arehalli Hobli,
Beluru Taluk, Hassan District.
2. Devaraju N. S/o Nanjappagowda A.N.
Aged about 57 years,
R/o Anugatta village, Arehalli Hobli,

Beluru taluk, Hassan District.

3. Girija W/o Devaraju N.
Aged about 50 years,
R/o Anugatta village, Arehalli Hobli,
Beluru taluk, Hassan District.

.....Accused persons

(By Sri. **B.V.N.**, advocate for Accused Persons)

- | | |
|----------------------------------|---|
| 1] Date of occurrence of offence | : 23.03.2016 |
| 2] Date of report of offence | : 30.03.2016 |
| 3] Name of the complainant | : Shanthakumar PDO |
| 4] Date of recording of evidence | : 24.01.2020 |
| 5] Date of closing evidence | : 28.04.2026 |
| 6] Offence complained of | : U/Sec.504, 353 and 427
R/w sec. 34 of IPC. |
| 7] Opinion of the Judge | : Accused persons found not
guilty. |

J U D G M E N T

The instant charge-sheet has been filed by Arehalli Police against the accused persons for the offences punishable U/Section 181 of Indian Motor Vehicle Act, U/sec.504, 353 and 427 R/w sec. 34 of IPC.

The case of the prosecution, in brief is as follows –

2. It is alleged that, on 30.01.2016 at about 11.00 AM

within the jurisdiction of Arehalli Police at Anugatta village in property bearing Sy No.61/1 which belongs to CW.12 one bore well was dug in the interest of public at the expense of Government, in the said bore well the accused No.1 had put his own motor and he was drawing water. At that time CW.1 along with the members of Anugatta Grama Panchayath and staffs told accused No.1 to remove the motor and make way for the public to draw water at that time the accused persons in furtherance of their common intention abused CW.1 in filthy language and restrained him from discharging his official duty. Further again on 23.03.2016 at 05.00 P.M. while CW.5 and 6 were trying to reinstall the motor to the bore well the accused persons trespassed into the said property and abused CW.5 and 6 in filthy language and destroyed the bore well by putting stones and thereby accused No.1 to 3 have committed the offences punishable U/Sec. 504, 353 and 427 R/w sec. 34 of IPC.

3. After submission of the charge-sheet, cognizance was taken. In pursuance of Section 207 of the Code of Criminal procedure, the copy of charge-sheet was furnished to the accused persons. Charge for the offences punishable U/sec.504, 353 and 427 R/w sec. 34 of IPC was read over in the language known to them wherein, the accused persons pleaded not guilty and claimed to be tried.

4. In order to bring home the guilt of the accused, the

prosecution has got examined 14 witnesses as P.W.1 to PW.14 and produced 17 documents as per Ex.P1 to P17 and closed its side. That when the case was posted for further chief examination of PW.1, PW.1 has died hence his evidence is discarded.

5. After closure of evidence on the side of prosecution, the statement of accused persons were recorded as per Sec.313 of Cr.P.C. The accused persons denied all the incriminating circumstances appearing against them. The accused persons have not chosen to lead any evidence on thier behalf.

6. I have heard both sides.

7. On perusal of records of the case, the following points would arise for consideration and determination: -

1. Whether the prosecution proves beyond reasonable doubt that, on 30.01.2016 at about 11.00 AM within the jurisdiction of Arehalli Police at Anugatta village in property bearing Sy No.61/1 which belongs to CW.12 one bore well was dug in the interest of public at the expense of Government, in the said bore well the accused No.1 had put his own motor and he was drawing water. At that time CW.1 along with the members of Anugatta Grama Panchayath and staffs told accused No.1 to remove the motor and make way for the public to draw water at that

time the accused persons in furtherance of their common intention abused CW.1 in filthy language and thereby committed the offence punishable U/Sec.504 R/w sec. 34 of I.P.C?

2. Whether the prosecution further proves beyond reasonable doubt that, on the above mentioned place and time the accused persons restrained CW.1 from discharging his official duty and thereby committed the offence punishable U/Sec.353 R/w sec. 34 of I.P.C?
3. Whether the prosecution further proves beyond reasonable doubt that, on 23.03.2016 at 05.00 P.M. while CW.5 and 6 were trying to reinstall the motor to the bore well the accused persons trespassed into the said property and abused CW.5 and 6 in filthy language and destroyed the bore well by putting stones and thereby committed the offence punishable U/Sec.427 R/w sec. 34 of I.P.C?
4. To what order?
8. My answer to 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: As per final order for the following:-

REASONS

9. **POINT NO.1 to 3:** Since these points are interconnected with each other and will involve common discussion, they are taken up together for consideration in order to avoid repetition of facts.

10. In order to prove the case of the prosecution, the prosecution is required to prove the essential ingredients of the offences alleged against the accused. The essential elements of Sec. 504 of Is intentional insult with intent to provoke breach of peace. Essential elements of Sec.353 of IPC is assault or criminal force to deter public servant from discharging his duty. Essential elements of Sec.427 of IPC is mischief causing damage to the amount of Rs.50/-. In the light of above principles, now let me examine the factual matrix of this case.

11. In order to bring home the guilt of the accused persons, the prosecution has got examined several witnesses. Now let me examine the witnesses to ascertain

the case of the prosecution. The complainant by name Shanthakumar is examined as PW.1. That when the case was posted for further chief examination of PW.1 he has died, hence his evidence is discarded.

12. Further the prosecution is examined the spot mahazar witnesses as PW.2 and 6. During the course of their evidence they have completely turned hostile to the case of the prosecution and deposed that, in their presence spot mahazar was not conducted and they do not know the contents of Ex.P1. Except for identifying their signature found on Ex.P1 they have denied all the other factors. The learned APP has cross examined PW.2 and 6 by considering them hostile, even then in the cross examination nothing has been elicited to disbelieve their version.

13. Further the prosecution has examined one of the eye witness as PW.3, she has deposed that, she knows the accused persons. She was the president of Anugatta Grama Panchayath in the year 2015. That the accused No.1 had dug a bore well at the expense of Government in his

property. That when there was a shortage of water to the villagers the water men went to accused No.1 and told him to give water at that time the dispute has arisen. When CW.1 went to check as to what was happening the dispute has arisen. In this regard CW.1 has lodged the complaint. That after the complaint was lodged even PW.3 has affixed her signature. The same is marked as Ex.P2(a). The learned APP has cross examined PW.3 by considering her partly hostile. In the cross examination PW.3 has denied the suggestion that, the accused persons have obstructed CW.1 from discharging his duty and abused them in filthy language and destroyed the well by putting stones. The counsel for the accused persons have cross examined PW.3. In the cross examination PW.3 has admitted that she does not the contents of Ex.P2 and she does not anything about the case.

14. Further the prosecution has examined eye witnesses as PW.4 he has deposed that, on 23.03.2016 there are some dispute with regard to water between the accused

persons and CW.6 and 12. In this regard CW.1 and 2 have lodged the complaint before the police. The learned APP has cross examined PW.4 by considering him hostile. During the course of cross examination he has denied all the suggestion put to him.

15. Further the prosecution has examined the owner of the property bearing Sy No.61/1 of Anugatta village as PW.5, he has completely turned hostile to the case of the prosecution and has deposed that he does not know anything about the case and he has not given any statement before the police. The learned APP has cross examined PW.5 by considering him hostile, but in the cross examination nothing has been elicited to disbelieve his version.

16. Further the prosecution has examined the eye witnesses as PW.7, 8, 9,12 and 13. They have completely turned hostile to the case of the prosecution they do not know anything about the incident and they have not given any statement before the police. The learned APP has cross examined PW.7,8,9,12 and 13 by considering them hostile,

but in the cross examination nothing has been elicited to disbelieve their version.

17. Further the prosecution has examined DDPI as PW.11. He has deposed that, he was working as DDPI from 2016 to 2018. That as per the information given by CW.1 in property bearing Sy No.61/1 of Anugatta village there was a well belonging to the Panchayath. When the motor of the said well was taken for repair the accused person installed their own motor and started taking water for their own use. That the said bore well was dug by using the money spent by the Government. That when CW.1 repaired the motor and tried to reinstall the same the accused persons had put stones to the bore well and destroyed the same. That the accused persons has abused CW.1 in filthy language. The counsel for the accused persons have cross examined PW.11. In the cross examination PW.11 has admitted that, he has not given any statement before the Police. That the facts stated by him in the chief examination is what stated to him by CW.1. He does not know who is the owner of

property bearing Sy No.61/1 and he has not produced any documents to show that, the bore well belongs to the Panchayath.

17. Further the prosecution has examined the Investigating Office as PW.10 and 14, who have registered the case, conducted spot Mahazar, recorded the statement of the witnesses and filed the Charge sheet. They have deposed about the procedure conducted by them at the time of the investigation. The counsel for the accused persons has cross examined PW.10, in the cross examination PW.10 has admitted that the property bearing Sy No.61/7 belongs to Nagarathnamma i.e. the accused No.1. The RTC of the said property is marked as Ex.D1. Further PW.14 in his cross examination has admitted that, he has not produced any document to show that in Sy No.61/1 there is a bore well.

18. That on perusal of evidence of PW.11,10 and 14 it is clear that the ownership of property bearing Sy No.61/1 is in dispute. It is the contention of the prosecution that, a bore well was dug at the expense of the Government in property bearing Sy No.61/1 of Hanugatta Grama Panchayath. But no way they have

stated has to why a bore well was dug at the expense of the Government in the property of a private person and there is no documents to show that, a bore well was dug in property bearing Sy No.61/1. The very existence of bore well and the title of property bearing Sy No.61/1 is in dispute.

19. Moreover all the material witnesses such as eye and mahazar witnesses have turned hostile and has not supported to case of the prosecution.

20. In the present case on perusal of prosecution evidence many contradictions were found, hence this court deems it proper to extend benefit of doubt to the accused persons. In ***Bhagwan Jagannath Markad v. State of Maharashtra, (2016) 10 SCC 537 the Hon'ble Apex Court*** held as under:

“18. It is accepted principle of criminal jurisprudence that the burden of proof is always on the prosecution and the accused is presumed to be innocent unless proved guilty. The prosecution has to prove its case beyond reasonable doubt and the accused is entitled to the benefit of the reasonable doubt. The reasonable doubt is one which occurs to a prudent and reasonable man. Section 3 of the Evidence

Act refers to two conditions—(i) when a person feels absolutely certain of a fact —“believes it to exist”, and (ii) when he is not absolutely certain and thinks it so extremely probable that a prudent man would, under the circumstances, act on the assumption of its existence. The doubt which the law contemplates is not of a confused mind but of prudent man who is assumed to possess the capacity to “separate the chaff from the grain”. The degree of proof need not reach certainty but must carry a high degree of probability [Vijayee Singh v. State of U.P. , (1990) 3 SCC 190”

21. Regarding the value of suggestions during the cross examination and burden of proof the ***Hon’ble High Court Gujarat in Legal Heirs of Umedmiya R Rathod Vs State of Gujarat in First Appeal NO. 5952 of 1995*** held as under:

“74.It is a settled position of law that mere suggestions are not sufficient to dislodge or disprove the case of the plaintiff. Suggestions in cross examination have no evidentiary value. In absence of any evidence, nor any material traced in the cross examination in support thereof, the findings so far could not have been answered in the affirmative by the Trial

Court as well as by this Court in the First Appeal.

78. The expression "burden of proof" is used in two senses, i.e. The burden of proving an issue or issues sometime termed the 'legal burden', and the burden of proof as a matter of adducing evidence during the various stages of the trial. What is called the burden of proof on the pleading should not be confused with the burden of adducing evidence which is described as "shifting". See, observations in Narayan v. Gopal [AIR 1960 SC 100]; Pickup v. Thames Insurance Co., [(1878) 3 QBD 594]; Lakshmana v. Venkateswarlu, [76 Ind App 202 : (AIR 1949 PC 278); 15 Halsbury (Simond) 267]; HuytonwithRoby Urban District Council v. Hunter, [(1955) 2 All E. R. 398 at p. 400] per Denning L. J. These two aspects of the burden of proof are enunciated in Sections 101 and 102 of the Evidence Act. Section 101 shows that the initial burden of proving a prima facie case in his favour is on the plaintiff. When he gives such evidence as will support a prima facie case, the onus shifts on the defendant to adduce rebutting evidence to meet the case made out by the plaintiff. As the case continues to develop, the onus may shift back again to the plaintiff."

22. On careful perusal of the prosecution evidence many material contradictions were found. Hence this court holds that the prosecution has failed to adduce cogent,

corroborative, trustworthy, believable evidence before the court and the available evidence doesn't inspire the confidence of this court. Accused persons are entitled for benefit of doubt. For the foregoing reasons and discussions this court is of the opinion that the prosecution failed to prove the accusation leveled against accused persons beyond reasonable doubt. Hence this court answers **Point No.1 to 3 in the Negative.**

23. **POINT NO.4:** In view of the reasons given and finding arrived at point No.1 to 3, I hold that the accused is not guilty of offence punishable U/Sec.504, 353 and 427 R/w sec. 34 of IPC and hence, I proceed to pass the following;

ORDER

Acting under Section 248 (1) of the Code of Criminal Procedure, I acquit the accused No.1 to 3 for the offences punishable **U/Sec. 504, 353 and 427 R/w sec. 34 of IPC.**

The Bail and surety bond of the accused No.1 to 3 shall be in force till the appeal period is over.

The accused No.1 to 3 are set at liberty.

(Dictated to the Stenographer transcribed and computerized by her, corrected by me and then pronounced in the open court on this, the **25th day of June, 2026**)

[Smt. Salma A.S.]
I Addl. Civil Judge & JMFC, Belur

ANNEXURE

WITNESSES EXAMINED ON BEHALF OF THE PROSECUTION:

P.W.1: Shanthakumar S/o Mariyappa
P.W.2: Shantharaju S/o Nanjegowda
P.W.3: Manjula W/o Shivakumara
P.W.4: Manjunatha S/o Kariyayya
P.W.5: Kantharaju S/o Halappagowda
P.W.6: Nagaraju S/o Siddegowda
P.W.7: Gowramma W/o Ashoka
P.W.8: Kalpana W/o Ganesha
P.W.9: Prema W/o Shantharaju
P.W.10: Rangaswamy S/o Giryappa
P.W.11: Malleshappa S/o Varadegowda
P.W.12: Channaraju S/o Siddayya
P.W.13: Shivakumar S/o Mallappa
P.W.14: Chandrashekhar S/o Shivakumar

FOR DEFENCE: Nil.

DOCUMENTS MARKED ON BEHALF OF THE PROSECUTION:

Ex.P.1	:	Spot Mahazar (a and b) Signature
Ex.P.2	:	Complaint (a and b) Signature
Ex.P.3 to 8	:	Statements (a) Signatures
Ex.P. 9	:	F.I.R. (a) Signature
Ex.P.10	:	Work conduct certificate (a and b) Signature
Ex.P.11 &12	:	Attendance certificate(a and b) Signature
Ex.P.13 &14	:	Statements (a) Signature
Ex.P.15 &16	:	Bore well bill (a) Signature
Ex.P.17	:	RTC

MATERIAL OBJECTS MARKED FOR PROSECUTION: Nil.**FOR DEFENCE:** Nil.

[Smt. Salma A.S.]
I Addl. Civil Judge & JMFC, Belur