

IN THE COURT OF THE PRL.CIVIL JUDGE & JMFC,
AT ALAND

PRESENT

SRI. GURUPRASAD.C, B.A.L. LL.B.,
PRL.CIVIL JUDGE & JMFC,
ALAND

DATED THIS THE 5TH DAY OF MARCH - 2021

CRIMINAL CASE NO.353/2015

COMPLAINANT:

The State through Aland Police Station.

(By Asst. Public Prosecutor,)

//Versus//

ACCUSED:

1. Basanna S/o. Peerappa Walikar,
Aged: 54 years, Occ: Coolie,
 2. Mallinath S/o. Basanna Walikar,
Aged: 32 years, Occ: Coolie,
- Both are R/o. Jawalaga (J) village, Tq: Aland.

(By Sri. A.C. Tole, Advocate)

1.	Date of commencement of offence.	18.08.2014
2.	Date of report of offence.	18.08.2014
3.	Arrest of the Accused.	-----

4.	Name of the Informant	Sunil S/o. Annappa Walikar, R/o. Javalaga (J) village, Tq: Aland.
5.	Date of commencement of recording evidence.	19.02.2021
6.	Date of closing of evidence.	19.02.2021
7.	Offences complained of	Secs.324, 504 and 506 Read with Section 34 of Indian Penal Code.
8.	Opinion of the Judge.	As per final order

**PRL. CIVIL JUDGE & JMFC,
ALAND**

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J U D G M E N T

The Aland Police have submitted the Charge Sheet against the accused No.1 and 2 for the offences punishable U/Secs.324, 504 and 506 Read with Section 34 Read with Section 34 of Indian Penal Code.

2. The brief facts of the Prosecution case are as follows:

C.W.1 had given an information before the police stating that on 18.08.2014 at 04:00 p.m., in Jawalaga (J) village, near Siddeshwara Temple, within the limits of Aland Police Station, in furtherance of common intention accused No.1 and 2, accused No.1 intentionally insulted CW1 by abusing him in filthy language as “ಲಕ್ಷ್ಮಿ ಗುಡಿಯ ಜಾತ್ರೆಯ ಖಾಂಡಿನ ಪಟ್ಟಿಯಲ್ಲಿ ಉಳಿದ ರೂ.5,000/- ಏನ ಕೇಳುತ್ತಿ ನಿನ್ನದು ಎಷ್ಟು ತಿಂಡಿ ಇದೆ” and voluntarily caused hurt to CW1 on his nose, mouth and lips with stone and caused bleeding injury to his teeth. Accused No.1 and 2 criminally intimidated CW1 by threatening to take away his life saying as “ಇವತ್ತು ಉಳಿದಿದಿ ಮಗನೆ ಇನ್ನುಮುಂದೆ ಲಕ್ಷ್ಮಿ ಗುಡಿಯ ಖಾಂಡಿನ ಪಟ್ಟಿ ಕೇಳಿದರೆ ನಿನಗೆ ಜೀವ ಸಹಿತ ಇಡುವುದಿಲ್ಲ” and thereby accused No.1 and 2 have committed offences punishable U/Secs.324, 504 and

506 Read with Section 34 Read with Section 34 of Indian Penal Code.

3. On the basis of Statement given by C.W.1-Informant, Aland Police have registered a case against the accused No.1 and 2 in Crime No.200/2014 and registered the FIR for the offences punishable U/Secs.324, 504 and 506 Read with Section 34 Read with Section 34 of Indian Penal Code. It is stated that the Police took up the investigation and after completion of investigation, the Police have submitted the Charge Sheet against the accused persons for the offences punishable U/Secs.324, 504 and 506 Read with Section 34 Read with Section 34 of Indian Penal Code.

4. As there are sufficient materials in the Charge Sheet to proceed against the accused persons, cognizance was taken for the offences punishable U/Secs.324, 504 and 506 Read with Section 34 Read with Section 34 of Indian Penal Code and the summons were issued to the accused.

5. In pursuance of summons, the accused have appeared before the Court through their advocate. Accused persons are

enlarged on bail. Copy of Charge Sheet and other papers were furnished to the accused as contemplated U/Sec. 207 of Cr.P.C.

6. Heard both sides. As there were sufficient materials available on record to frame the charge, the Charge was framed for the offences U/Secs.504, 324 and 506 Read with Section 34 of Indian Penal Code. The same was readover and explained to the accused persons in the language known to them. Accused pleaded not guilty and claimed to be tried and thereby evidence is set down.

7. In order to prove the guilt against the accused, the prosecution has examined witnesses as PW1 got marked document as Ex.P-1 with sub-marking.

8. PW1 is injured-cum-informant. The witness being the material witness to the case of the prosecution did not support the case of prosecution. The learned A.P.P. prayed to issue summons to the rest of the witness. In view of hostility of independent witness i.e., PW1 and in view of the facts of the case, the prayer of A.P.P. was rejected, thereby the rest of

the witness was dropped, as no purpose of the prosecution will be served by examining the rest of the witness. Hence, the evidence of prosecution is closed.

9. There is no material incriminating evidence against the accused persons in the evidence of PW1. Thereby, this Court has dispensed with the Statement of accused U/Sec.313 of Cr.P.C.

10. Heard the arguments of both sides.

11. On going through the facts and circumstances of the prosecution case, the following points arose for my determination:

POINTS

1. Whether the prosecution proves beyond all reasonable doubt that on 18.08.2014 at 04:00 p.m., at Jawalaga (J) village, near Siddeshwara Temple, within the limits of Aland Police Station, accused No.1 and 2 in furtherance of common intention, when CW1 was eating, accused No.1 intentionally insulted CW1 by abusing him in filthy language as “ಲಕ್ಷ್ಮಿ ಗುಡಿಯ ಜಾತ್ರೆಯ ಖಾಂಡಿನ ಪಟ್ಟಿಯಲ್ಲಿ ಉಳಿದ ರೂ.5,000/- ಎನ ಕೇಳುತ್ತಿ ನಿನ್ನದು ಎಷ್ಟು

ತಿಂಡಿ ಇದೆ” and thereby gave provocation to CW1 intending or knowing it likely that such provocation will cause him to break the public peace or to commit any other offence and thereby accused No.1 and 2 have committed an offence punishable U/Sec.504 R/w Sec.34 of Indian Penal Code?

2. Whether the prosecution proves beyond all reasonable doubt that on above said date, time and place, accused No.1 and 2 in furtherance of common intention, accused No.2 caught-hold CW1, accused No.1 voluntarily caused hurt to CW1 on his nose, mouth and lips with stone and caused bleeding injury to his teeth, if which is used as a weapon of offence is likely cause death and thereby accused No.1 and 2 have committed an offence punishable U/Sec.324 R/w Sec.34 of Indian Penal Code?

3. Whether the prosecution proves beyond all reasonable doubt that on above said date, time and place, accused No.1 and 2 in furtherance of common intention, have criminally intimidated CW1 by threatening to take away his life saying as “ಇವತ್ತು ಉಳಿದಿದಿ ಮಗನೆ ಇನ್ನುಮುಂದೆ ಲಕ್ಷ್ಮೀ ಗುಡಿಯ ಖಾಂಡಿನ ಪಟ್ಟಿ ಕೇಳಿದರೆ ನಿನಗೆ ಜೀವ

ಸಹಿತ ಇಡುವುದಿಲ್ಲ", so as to cause alarm in his mind and thereby accused No.1 and 2 have committed an offence punishable U/Sec.506 R/w Sec.34 of Indian Penal Code?

4. What Order?

12. My findings to the above Points are as under:

POINTS NO.1 to 3: In the Negative,

POINT NO.4: As per final order,

For the following: -

REASONS

13. **POINTS NO.1 to 3 :-** As these points are inter linked with each and also similar evidence is led on all these Points, I have taken all these points together for common discussion in order to avoid repetition of facts and discussion.

In order to prove its case, the prosecution has examined PW1 the injured-cum-informant. The witness being the material witness to the case of the prosecution did not support the case of prosecution. The witness is supposed to give evidence against the accused persons regarding commission of offence and in accordance with the projection of the prosecution case. The witness has completely denied the case of prosecution as averred in the First Information

Statement and also charge sheet. The witness not supported the case of the prosecution.

14. The learned A.P.P. has prayed this court to treat PW1 as hostile witness. Hence, he was treated as hostile witness, therefore the learned APP has cross-examined him in detail with great efforts. But, in spite of the cross-examination by the learned APP nothing has been elucidated from his mouth so as to support the case of prosecution.

15. On perusal of the evidence of PW1, it is clear that he has not supported the case of the Prosecution. Further the witness has deposed before the court against the case of the prosecution. The prosecution has not proved the story put forth in the first information statement and also in the charge sheet. In the absence of corroborative evidence, the exhibited document is not sufficient to prove the guilt against the accused persons for which they have been charge sheeted. Hence, the entire case of the prosecution is not free from doubt and the accused persons have to be given benefit of doubt. The prosecution has failed to prove the guilt against the accused persons and the accused No.1 and 2 are entitled

for acquittal. Accordingly, I answer Points No.1 to 3 in the **NEGATIVE.**

16. **POINT NO. 4:** - In the above result, the accused persons are entitled for acquittal hence, I proceed to pass the following:

ORDER

Acting U/Sec.248(1) of Cr.P.C. accused No.1 and 2 are acquitted of the offences punishable U/Secs.504, 324 and 506 Read with Section 34 of Indian Penal Code.

Bail bonds of the accused and Surety bonds shall stand cancelled. The bail bonds executed U/Sec.437 (A) of Cr.P.C. shall be continued.

PSI Aland Police Station is hereby directed to destroy article mentioned in Column No.11 in the charge sheet, that is, stone being worthless, after the appeal period is over.

(Dictated to the Stenographer on Computer directly, typed by him, Judgment corrected and signed by me, then pronounced by me in the Open Court on this the 5th day of March - 2021)

(GURUPRASAD.C)
PRL. CIVIL JUDGE & JMFC,
ALAND

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ANNEXURES

List of the Witnesses examined by the Prosecution:

P.W.1 : Sunil S/o. Annappa, R/o. Javalaga (J), Tq: Aland.

List of the Documents exhibited for the Prosecution:

Ex.P-1: First information statement,

Ex.P-1(a): Signature of PW1.

List of the MOs marked on behalf of the Prosecution:

--Nil--

List of the Witnesses examined for defence:

--Nil--

List of the Documents exhibited for defence:

--Nil--

List of the MOs marked on behalf of Defence:

--Nil--

(GURUPRASAD.C)
PRL. CIVIL JUDGE & JMFC,
ALAND

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