

KACB010019152022



**IN THE COURT OF THE I-ADDL. DISTRICT &
SESSIONS JUDGE AT CHIKKABALLAPUR.**

Dated this the 14th day of August, 2023

: PRESENT :

Sri. SHIVAPRASAD K.B., B.Com., LL.B.,
I-Addl. District and Sessions Judge,
Chikkaballapur.

Spl. C.C. No.31/2022

COMPLAINANT : The State of Karnataka,
Represented by Dy.S.P.,
Chikkaballapur Sub Division,
Chikkaballapur
(Chelur Police Station)
(By the learned Spl. Public Prosecutor)

**INFORMANT/
COMPLAINANT :** Bhovi Ramappa,
S/o Pedda Venkata Bhovi,
aged about 73 years,
R/at Venkatapura village,
Bagepalli Taluk
Chikkaballapur District

-VS-

Accused : 1. Venkataravanappa B. @
Beerangi Venkataravanappa,
S/o late Subbanna,
aged about 70 years,

2. Jagadish V.
S/o Chinnavenkataravanappa,
aged about 40 years,
3. Smt. Vanitha V.
W/o Jagadish,
aged about 32 years,
4. Chinnavenkataravanappa
S/o Beerangi Subbanna,
aged about 66 years,
5. Smt. Jayarathnamma
W/o Chinnavenkataravanappa,
aged about 60 years,
6. Smt. Venkatamma
W/o B. Venkataravanappa,
aged about 65 years,

All are residing at:
Venaktapura village,
Chelur Hobli,
Bagepalli Taluk,
Chikkaballapur District

(Rep. by Sri. K.M. Naga Murthy,
Advocate)

* * *

TABULATION OF EVENTS

Date of Offence	12.07.2022
Date of report of offence	13.07.2022
Date of arrest of accused no.1 to 6	Accused no.1 released on interim bail and other accused granted as per anticipatory bail order in Crl.Mis.No.555/2022.

Date of release of accused no.1 to 6	---
Period of custody of accused no.1 to 6	Year/s Month/s Day/s -- -- --
Name of the complainant	Bhovi Ramappa S/o Pedda Venkata Bhovi
Date of commencement of Recording evidence	11.07.2023
Date of closing evidence	26.07.2023
Offence complained of	Under Sec.143, 147, 323, 323, 504, 506 r/w Sec.149 of IPC, Sec.3(1) (f),(r), 3(1) (s) of SC/ST (POA) Amendment Act, 2015
Opinion of the Judge	Accused 1 to 6 found not guilty for the charges leveled against them.

(SHIVAPRASAD K.B.)

I Addl. District & Sessions Judge,
Chikkaballapur

J U D G M E N T

PW.13-V.K. Vasudev, the Deputy Superintendent of Police, Chikkaballapur Sub-Division, Chikkaballapur laid the charge sheet against the accused no.1 to 6 for the offences punishable under Sec.143, 147, 323, 504, 506 r/w Sec.149 of IPC, Sec.3(1)(f), (r), (s) of SC/ST (POA) Amendment Act, 2015.

2. The prosecution case in brief is as under:

PW.1-Bhovi Ramappa and PW.2-Nagamma are the members of Bhovi caste, PW.3-Venkataravana is a member of Adi-Karnataka caste, which are Scheduled caste and the accused no.1 to 6 are the members of Vokkaliga caste, which is non-scheduled caste and non-scheduled tribe.

3. The PW.1 is in possession and enjoyment of the property bearing Sy.No.36/6 measuring 1 acre 02 guntas of Venkatapura village, Chelur Hobli, Bagepalli Taluk. About 35-40 years back, PW.1 sold his property bearing Sy.No.36/7 measuring 2 acres to the father of the accused no.1 and the accused no.1 and his family are in possession and enjoyment of the said land. However, the accused no.1 and 3 got registered the aforesaid property bearing Sy.No.36/6 in favour of accused no.3-Vanitha and one Rohini, who are the daughter-in-laws of accused no.1. On coming to know said registration, the PW.1 questioned the act of accused no.1 and in that regard, quarrel took place and ill-will developed between the parties.

4. On 12.07.2022 at 11.30 a.m., the PW.1 and 2 were pouring the water to coconut trees at their land

bearing Sy.No.36/6 of Venkatapura village, and while PW.1 and 2 came near the road to bring water, the accused no.1 to 6 came to the said spot, forming unlawful assembly and accused no.2 picked up quarrel and claimed that said property belongs to them. The accused no.2 pushed the PW.1 on the stones and caused injury to his right elbow, left knee and other parts of body. While the PW.2 came to rescue of her husband, the accused no.3 spitted on her face and accused no.5 and 6 dragged her holding her tuft. The accused no.1 and 4 abused the PW.2 filthily and pushed her on the stones and caused injury to her legs and right elbow. Further, the accused no.2 abused the PW.1 touching his caste and threatened to finish him if he once against enters their property and kicked him. While the PW.3 attempted to pacify the quarrel, the accused no.2 abused him touching his caste also. Despite the same, the PW.3 to 6, 9, 10 managed to pacify the quarrel and after the incident, the PW.1 and PW.2 visited the General hospital, Bagepalli for medical treatment.

5. on 13.07.2023 at 9.00 a.m. the PW.1 lodged the complaint at Ex.P.1 before PW.8-Peer Sab, ASI of Chelur Police station, and he registered the FIR at

Ex.P.21 against the accused no.1 to 6 for the offences punishable under Sec.143, 147, 323, 504, 506 r/w Sec.149 of IPC, Sec.3(1)(f), 3(1)(r), 3(1)(s) of SC/ST (POA) Amendment Act, 2015.

6. As the matter involves the offences under SC/ST (POA) Act, the Superintendent of Police, Chikkaballapur directed the PW.13-V.K. Vasudev Dy.S.P., to conduct the investigation as per Ex.P.25. Accordingly, he took up the matter for investigation from PW.8 and he visited the incident spot and drew the mahazar at Ex.P.6 in the presence of PW.5 and 11 at the place shown by PW.4. He drew the spot sketch at Ex.P.7 and he snapped the photographs at Ex.P.9 to 14. He received the certificate under Sec.65-B of Indian Evidence Act, relating to the photographs at Ex.P.24 from PW.12-Head constable investigating assistant. He recorded the further statement of PW.1 and statements of PW.3 to 6, 9, 10. He received the statement of PW.1 under Sec.164 of Cr.P.C. as per Ex.P.22. He received the wound certificates at Ex.P.17 and 18 from PW.7-medical officer. He also received the report relating to the caste of PW.1 to 3 and accused no.1 to 6 at Ex.P.19. After completion of investigation, he laid the charge sheet against the accused no.1 to 6 for the offences

punishable under Sec.143, 147, 323, 504, 506 r/w Sec.149 of IPC, Sec.3(1)(f), (r), (s) of SC/ST (POA) Act.

7. This Court took cognizance of the aforesaid offences against the accused no.1 to 6 and after securing their presence, furnished copies of the charge sheet along with police papers as contemplated under Sec.207 of Cr.P.C., and case has been posted for hearing before charge.

8. After hearing both sides, framed the charges for the offences punishable under Sec.143, 147, 323, 504, 506 r/w Sec.149 of IPC, Sec.3(1)(f), (r), (s), 3(2)(va) of SC/ST (POA) Amendment Act, 2015 against the accused no.1 to 6. They pleaded not guilty and claimed to be tried. Hence, posted for prosecution evidence.

9. The prosecution in order to prove the charges in this case, it has got examined PW.1 to PW.13 witnesses and in support of its case, produced Ex.P.1 to P.29 documents.

10. On closure of evidence on prosecution side, the statement under Section 313 of Cr.P.C., has been recorded against the accused no.1 to 6 and they denied the whole incriminating materials against them. They

have not led any defence evidence or produced any documents.

11. Heard the learned Special Public Prosecutor, learned counsel for accused no.1 to 6. The learned counsel for the accused filed memo along with copies of sale deed dated 27.05.1982, M.R.105-42/84-85, Sale deed dated 20.05.2022, Order of Thasildar dated 18.07.2022, four RTCs in respect of Sy.No.36/6 of Venkatapura Village.

12. Upon hearing the arguments on both sides and perusal of material evidence on record, the points that arise for my consideration are as under:

Point No.1: Whether the prosecution proved beyond reasonable doubt that, two months prior to 12.07.2022, the accused no.1 and 3, the members of non-scheduled caste and non-scheduled tribe got registered the property bearing Sy.No.36/6 measuring 1 acre 02 guntas situated at Venkatapura Village, which is in possession of PW.1, a member of Bhovi caste, which is Scheduled caste, in the name of accused no.3-Vanitha and one Rohini, daughter-in-laws of accused no.1, and thereby the accused

no.1 and 3 have committed the offence punishable under Sec.3(1)(f) of SC/ST (POA) Act?

Point No.2: Whether the prosecution proved beyond reasonable doubt that on 12.07.2022 at about 11.30 a.m., on the mud road near the land bearing Sy.No.36/6 of Venkatapura village, while the PW.1 came to collect the water in order to pour the water to the coconut trees in the said land bearing Sy.No.36/6, the accused no.1 to 6 formed unlawful assembly with the common object to commit offences against the PW.1, and thereby they have committed the offence punishable under Sec.143 of IPC?

Point No.3: Whether the prosecution proved beyond reasonable doubt that on the aforesaid date, time and place, in furtherance of common object of unlawful assembly of accused no.1 to 6, they committed rioting, and thereby they committed the offence punishable under Sec.147 r/w Sec.149 of IPC?

Point No.4: Whether the prosecution proved beyond reasonable doubt that, on the aforesaid date, time and place, in furtherance of common object of unlawful assembly of accused no.1 to 6, the accused no.2 assaulted the

PW.1 with hands and pushed him on stone and caused injury on right elbow, legs and left knee, and accused no.2 kicked him; accused no.5 and 6 dragged the PW.2 holding her tuft, accused No.1 and 3 assaulted the PW.2 by hands and pushed her on stones and caused injuries to legs and and elbow, and caused hurt to PW.1 and PW.2, and thereby the accused no.1 to 6 have committed the offence punishable under Sec.323 r/w Sec.149 of IPC?

Point No.5: Whether the prosecution proved beyond reasonable doubt that, on the aforesaid date, time and place, in furtherance of common object of unlawful assembly of accused no.1 to 6, accused no.2 abused the PW.1 filthily and insulted him and while the PW.2 intervened during quarrel to rescue her husband, the accused no.3 spat on her face, and accused no.1 and 4 abused her and insulted her, and thus, gave provocation to PW.1 and PW.2 intending or knowing to be likely that such provocation will cause them to break public peace or to commit any other offence, and thereby accused no.1 to 6 have committed the offence punishable under Sec.504 r/w Sec.149 of IPC?

Point No.6: Whether the prosecution proved beyond reasonable doubt that on the aforesaid date, time and place, in furtherance of common object of unlawful assembly of accused no.1 to 6, the accused no.2 has threatened to murder PW.1, if he once enter their property, and thereby accused no.1 to 6 have committed the offence punishable under Sec.506 r/w Sec.149 of IPC?

Point No.7: Whether the prosecution proved beyond reasonable doubt that on the aforesaid date, time and place, in furtherance of common object of unlawful assembly of accused no.1 to 6, the members of non-scheduled caste and non-scheduled tribe, the accused no.2 abused the PW.1 a member of Bhovi caste, which is Scheduled Caste, and PW.3 a member of Adi-Karnataka caste, which is Schedule caste, touching their caste, and insulted them, within the public view, and thereby the accused no.1 to 6 have committed the offence punishable under Sec.3(1)(r) of SC/ST (POA) Act r/w Sec.149 of IPC?

Point No.8: Whether the prosecution proved beyond reasonable doubt that, on the aforesaid date, time and place, in furtherance of common object of

unlawful assembly of accused no.1 to 6, the members of non-scheduled caste and non-scheduled tribe, the accused no.2 abused the PW.1 a member of Bhovi caste, which is Scheduled Caste, and PW.3 a member of Adi-Karnataka caste, which is Schedule caste, taking their caste name within the public view, and thereby the accused no.1 to 6 have committed the offence punishable under Sec.3(1)(s) of SC/ST (POA) Act r/ w Sec.149 of IPC?

Point No.9: Whether the prosecution proved beyond reasonable doubt that, on the aforesaid date, time and place, in furtherance of common intention of accused no.1 to 6, the members of non-scheduled caste and non-scheduled tribe, they have committed the offence punishable under Sec.143, 147, 323, 506 of IPC, which are schedule offences under SC/ST (POA) Act against PW.1, with the knowledge that he is a member of Scheduled caste, and thereby they committed the offence punishable under Sec.3(1)(va) of SC/ST (POA) Act?

Point No.10:What order?

13. My findings to the above points are as under:

Point No.1 to 9: In the Negative,

Point No.10 : As per final order,
for the following:

R E A S O N S

POINT NO.1:

14. It is the specific case of the prosecution that, the PW.1 is in possession and enjoyment of property bearing Sy.No.36/6 measuring 1 acre 02 guntas of Venkatapura village, Bagepalli Taluk and about 35-40 years back, he has sold abutting property bearing Sy.No.36/7 measuring 2 acres in favour of father of accused no.1, and the family of accused no.1 is in possession and enjoyment of the said Sy.No.36/7. It is further case of the prosecution that the accused no.1 and 3 got registered the aforesaid property bearing Sy.No.36/6 belongs to PW.1, in favor of accused no.3 and one Rohani, the daughter-in-laws of accused no.1. Thus, the prosecution alleged that the accused no.1 and 3, the members of non-scheduled caste and non-scheduled tribe have fabricated the document to knock off the legal right of the PW.1, a member of Bhovi caste, which is Scheduled caste, and claimed the said belongs to them. Hence, the prosecution alleged that the accused no.1 and 3 have committed the offence

punishable under Sec.3(1)(f) of SC/ST (POA) Amendment Act, 2015.

15. In order to attract the offence punishable under Sec.3(1)(f) of SC/ST (POA) Act, the accused, who is a member of SC/ST must have wrongfully occupies or cultivates any land owned by or in the possession of a member of Scheduled caste and Scheduled tribe or wrongfully transferred such land from the member of SC/ST. The explanation in Sec.3(1)(g) of SC/ST (POA) Act is also applicable for the purposes of Sec.3(1)(f) of SC/ST (POA) Act. The explanation to Sec.3(1)(g) of SC/ST (POA) Act explained the expression 'wrongfully', employed in Sec.3(1)(f) of SC/ST (POA) Act, and it includes i) against the will of member of SC/ST caste, ii) without the consent of member of SC/ST caste, iii) with the consent of member of SC/ST caste where such consent has been obtained by putting the person or any other person in whom the person is interested in fear of death or hurt or; iv) fabricating the records of such land.

16. The prosecution in order to prove the caste of accused no.1 to 6 and PW.1 to 3 in the case, it has produced the Ex.P.19 report relating to their caste. On perusal of the Ex.P.19, it reflects that the PW.1 and 2

are the members of Bhovi caste, and PW.3 is a member of Adi-Karnataka caste, and accused no.1 to 6 are members of Vokkaliga caste. The Ex.P.19 exhibited as document with the consent of learned counsel for the accused and prosecution. During the evidence of PW.1 to PW.3 they stated that the PW.1 and 2 are members of Bhovi caste, PW.3 is a member of Adi-Karnataka caste and accused no.1 to 6 are the members of Reddy caste. The caste stated by the PW.1 to PW.3 during their evidences are not disputed by the accused. Thus, indisputably, the accused no.1 to 6 are members of non-scheduled caste and non-scheduled tribe and PW.1 to 3 are the members of Scheduled caste.

17. As per the case of the prosecution, the land bearing Sy.No.36/6 belong to PW.1 and he sold the abutting land bearing Sy.No.36/7 of Venkatapura village to the father of the accused no.1, however, the accused no.1 and 3 got registered the property bearing Sy.No.36/6 of Venkatapura village in favour of accused no.3-Vanitha and one Rohini, the daughter-in-laws of accused no.1. So, it is the specific contention of the prosecution that PW.1 is in possession and enjoyment of Sy.No.36/6 measuring 1 acre 2 guntas, situated at

Venkatapura village and the accused no.1 and 3 got registered regarding his property bearing Sy.No.36/6.

18. The PW.1 in his evidence stated that he has the land bearing Sy.No.36 measuring 1 acre 30 guntas and he sold other 1.00 acre land to the uncle of accused. During his chief examination he could not specify the exact survey number of the land, in which he is in his possession. The prosecution after treating him hostile, cross examined him, and during cross examination, he admitted that he sold the land in Sy.No.37 measuring 2 acres, which is on the southern side of his property to father of accused no.1 and accused no.1 is claiming that the said property bearing Sy.No.36/6 belongs to him. He has stated that he is in possession of land measuring 1 acre 30 guntas. During the chief evidence of PW.2-Nagamma wife of PW.1, she stated that they are in possession of land in Sy.No.36. She also could not specify the exact survey number of their land. After treating her hostile, the prosecution cross examined her and during cross examination, she admitted the prosecution version regarding their possession and enjoyment of said land bearing Sy.No.36/6 of Venkatapura Village.

19. The PW.4-Nagaraja is a close relative of PW.1 and PW.2 and in his chief evidence, he stated that the PW.1 is in possession of land measuring 1.00 acre in Sy.No.36 and he sold the land bearing Sy.No.37 to the father of the accused no.1. The PW.4 could not specify the exact survey number of the land, which is in possession and enjoyment of PW.1 and land sold to the father of the accused no.1. After treating him hostile, prosecution cross examined the PW.4 and during cross examination, he admitted the prosecution version regarding the possession and enjoyment of land of PW.1 and family of accused no.1. The PW.6-Ramachandrappa, in his chief evidence stated that the PW.1 is in possession of Sy.No.36/6 measuring 1 acre 2 guntas and he sold the Sy.No.36/7 to the father of the accused no.1. The PW.10-Anjaneyappa, in his chief evidence stated that the PW.1 is in possession of land bearing Sy.No.36/6 in their village. On perusal of the evidence of PW.3, 5, 6, 9, their evidences does not show the survey numbers of the land, in which the PW.1 is in possession or the accused is in possession. Thus, on perusal of the evidence of PW.1, 2, 4, 5, 10, they claimed that the PW.1 is in possession and enjoyment of the property bearing Sy.No.36/6 of Venkatapuara village. On perusal of the cross

examination of accused, they contended that the family of accused no.1 is in possession and enjoyment of Sy.No.36/6 of Venkatapura Village, after its purchase from PW.1 and accused no.1 got registered the said property in favour of the accused no.3 and one Rohini, his daughter-in-laws.

20. On going through the rival claims of the parties, it appears that the PW.1 alleged that he sold the property bearing Sy.No.36/7 to the father of the accused no.1 and he is in possession of Sy.No.36/6 of Venkatapura village. On the other hand, the accused no.1 to 6 contended that the PW.1 sold the property bearing Sy.No.36/6 and not Sy.No.36/7 of Venkatapura village to the father of accused no.1, and land bearing Sy.No.36/6 measuring 1 acre 02 guntas of Venkatapura Village is their property.

21. During the evidence of PW.13 investigating officer, the prosecution produced the record of rights in respect of property bearing Sy.No.36/6 of Venkatapura Village at Ex.P.28 and Ex.P.29 mutation register relating to the said land. The Ex.P.29 mutation register reflects that the name of accused no.3 and Rohini has been mutated as per the M.R.No.T2/2022-23 on the basis of order of Tahasildar in RRT/129/22-23. It also appears

that the names of accused no.1 and 4 in respect of said land Sy.No.36/6 has been deleted. The Ex.P.28 the record of rights in respect of Sy.No.36/6 of Venkatapura Village reflected the name of said accused no.3 and Rohini by virtue of the aforesaid mutation at Ex.P.29. Thus, the documents produced by the prosecution reflected that the land bearing Sy.No.36/6 of Venkatapura village is in possession and enjoyment of accused no.3 and Rohini. The prosecution except the oral evidence of PW.1, 2, 4, 5, 10, it has not produced single piece of documentary evidence to substantiate its contention that the PW.1 is the owner in possession and enjoyment of the Sy.No.36/6 of Venkatapura village and he sold the property bearing Sy.No.36/7 of Venkatapura village to the father of the accused no.1. In the absence of any corroborative documentary evidence to show that the PW.1 is the owner in possession and enjoyment of Sy.No.36/6, the oral evidence of PW.1, 2, 4, 5, 10 that PW.1 is in possession of the Sy.No.36/6 as alleged, holds any water. On the other hand, the evidence on record reveals that the said property was standing in the name of accused no.1 and 4, and after mutation at Ex.P.29, the said property standing in the name of accused no.3 and Rohini, and they are in possession of the said property. Thus, the

prosecution failed to prove that the PW.1 has been in possession and enjoyment of property bearing Sy.No.36/6 of Venkatapura Village and he sold the Sy.No.36/7 to father of the accused no.1 about 35-40 years back, and the accused no.1 and 3 fabricated the documents in respect of the property of PW.1 in favour of accused no.3 and Rohini. Hence, the prosecution could not prove the offence punishable under Sec.3(1) (f) of SC/ST (POA) Act, against the accused no.1 and 3. Hence, I hold the point no.1 is in the **negative**.

Point No.2 to 8:

22. It is the specific case of the prosecution that on 12.07.2022 at 11.30 a.m., the PW.1 and PW.2 the members of scheduled caste, were pouring the water to their Coconut trees in the land of bearing Sy.No.36/6 of Venkatapura village, and while they came to the road to bring the water, the accused no.1 to 6 the members of non-scheduled caste and non-scheduled tribe, formed unlawful assembly and picked up quarrel with them. It is the further case of the prosecution that the accused No.2 abused the PW.1 and assaulted him by hands and pushed him on the stones. Due to the same, the PW.1 sustained injury to his right elbow and left knee. It is also the case of prosecution that while the

PW.2 came to the rescue of PW.1, the accused No.3 spat on her face and accused No.5 and 6 held her tuft and dragged her. The accused No.1 and 4 have abused the PW.2 and pushed her on the stones and caused injury to her legs and right elbow. The accused No.,2 abused the PW.1 touching his caste and threatened to murder him if he once again enters their property and kicked him. While the PW.3 a member of scheduled caste, came to pacify the quarrel, the accused No.2 abused him touching his caste. Thus, the prosecution alleged that the accused no.1 to 6, have committed the offences punishable under Sec.143, 147, 323, 504, 506 r/w Sec.149 of IPC, Sec.3(1)(r),(s) of SC/ST (POA) Act.

23. To prove the alleged offences, the prosecution examined the PW.1, 2 - injured, PW.3-eye witness/victim, PW.4 to 6, 9 and 10 eye witnesses to the incident, the PW.7-medical officer who treated the PW.1 and 2. The prosecution also examined the PW.11-the mahazer witness to the spot mahazar Ex.P.7, PW.12-Head constable who assisted the PW.13 investigating officer, PW.8-ASI who registered the FIR and PW.13-investigating officer in the case.

24. On perusal of the evidences led by the prosecution, PW.5, 6, 9, 10 have not supported the prosecution version regarding incident allegedly occurred at 11.30 a.m., on 11.07.2022. So, the prosecution mainly relied upon the evidences of PW.1 to PW.4 to prove the alleged incident.

25. In this case, the criminal law set into motion by PW.1, by lodging the complaint at Ex.P.1 before the PW.8-ASI on 13.07.2022 at 9.00 a.m. As per the complaint averments, on 12.07.2022 at 11.30 a.m., PW.1 was pouring water to the coconut trees in his land bearing Sy.No.36/6 of Venkatapura village, the accused No.1 to 6 came near the coconut tree, forming unlawful assembly and picked up quarrel with him for pouring the water to the coconut trees. Further, the accused No.2 hit with his motorcycle to PW.1 and as such, he fell down and sustained injury to his hands, legs and waist. The accused persons assaulted the PW.1 and accused No.3 spitted on his face and dragged him holding his tuft, so also the accused No.6 assaulted him and kicked him. The complaint further appears that the accused No.1 to 3 threatened to murder him and his son, and abused touching his caste. At that time, the PW.2, PW.3 to PW.5 and PW.9 came to the spot to rescue the PW.1

and accused also assaulted PW.2 holding her tuft and abused her. The accused have caused bleeding injury to PW.1 and PW.2 and when the PW.3 came to their rescue, the accused have abused touching his caste.

26. Thus, on perusal of the complaint the PW.1 and 2 are injured, PW.3 a victim and PW.4, PW.5 and PW.9 are the eye witnesses to the alleged incident. But the complaint does not show the names of PW.6 and PW.10 at the spot during the incident alleged. However, as indicated above, the PW.5, PW.6, PW.9 and PW.10 have not supported the prosecution case regarding the incident alleged and their evidence has no much importance to prove the alleged incident. Now, let me examine the evidences of PW.1 to PW.4 and whether the prosecution proved the incident, beyond reasonable doubt from the evidences of material witnesses PW.1 to PW.4.

27. It is the evidence of PW.1-Bhovi Ramappa that one year back at 11.00 a.m, while he was returning to his home, after pouring water to the coconut trees at his land, the accused No.2 abused touching his caste and fisted him. He fell unconscious and he was shifted to Bagepalli General Hospital for medical treatment. It is his further evidence that eight days after his

admission at the hospital, he regained the conscious. He lodged the complaint at Ex.P.1. On perusal of the evidence of PW.1, complaint averments and prosecution case, the evidence of PW.1 is totally contrary to the complaint averments and prosecution case. Therefore, the prosecution treated him hostile to its case and during cross examination, he admitted the prosecution version regarding pouring the water to the coconut tree by PW.1 and PW.2, the unlawful assembly of accused no.1 to 6 while they came near the road to bring the water and assault by accused No.2. During cross examination by prosecution, the PW.1 admitted the injuries alleged, however the cross examination of the prosecution shows that after assault against him by accused no.2, he lost his consciousness. But, in the cross examination by prosecution, he further admitted the assault against PW.2 by accused No.1 and 4 and injury to her, alleged criminal intimidation to him, caste abuse towards PW.3. During cross examination, he denied the suggestion of the prosecution that he gave further statement at per Ex.P.3 and 3(a) that the accused no.3 spitted on the face of PW.2, the accused no.5 and 6 caused hurt to her, the accused no.2 has not hit by his motorcycle to him. During his cross examination, he admitted that he gave his statement

under Sec.164 of Cr.P.C. at Bagepalli Court as per Ex.P.6.

28. On perusal of the cross examination by the accused, it appears that they totally denied the alleged incident. In the cross examination by the accused, the PW.1 stated that he cannot say whether he put the signature to Ex.P.1 after eight days. He has stated somebody wrote the Ex.P.1. He does not know the contents of Ex.P.1. In the cross examination, it is elicited that the police have not visited him, during his admission at the hospital. On perusal of the entire evidence of PW.1, his evidence reflected contradictory and dual versions regarding the incident alleged. As per Ex.P.1 lodged one day after the alleged incident, the alleged incident took place near the coconut tree, while the PW.1 was pouring the water to the coconut trees at his land and accused No.2 hit him by motorcycle and all the accused persons abused him. As per the complaint during such incident the PW.2 was not present at the spot and PW.2 to 5 and 9 came towards him after the assault against the PW.1. However, as per the prosecution case, the PW.1 and 2 after pouring the water to coconut trees, came to the road to bring water and at that time, the alleged incident took place.

But in the chief evidence the PW.1, he stated that while he was returning to the house after pouring water to the coconut trees, the alleged incident took place, and at that time, the accused No.2 abused him touching the caste and fisted him. As per chief evidence of PW.1, he was alone present at the inception of the incident and the incident took place during his return to the home. The chief evidence does not show the presence of accused No.1, 3 to 5 at the spot. So, there are material contradictory versions regarding the genesis of the incident. No doubt, in the cross examination by the prosecution PW.1 admitted some part of the prosecution case, but the evidence of PW.1 reflected dual versions regarding the incident alleged by him during his evidence.

29. The PW.2-Nagamma is wife of PW.1 and according to prosecution case, she was present at the incident spot during the incident. It is the evidence of PW.2 that at about 11.00 a.m, as her husband PW.1 did not return from the land, she was proceeding towards their land and at that time, the accused had assaulted her husband. It is her further evidence that the accused persons have assaulted her also, and she and PW.1 sustained injury to their legs and hands. They admitted

to the hospital for medical treatment for one week. It is also her evidence that the PW.3 to 5 and 9 have pacified the quarrel. On perusal of the evidence of PW.2, it does not show the specific act of specific accused alleged by the prosecution. Her evidence shows omnibus allegations of alleged assault against her and her husband. Further, her evidence does not show abuse towards the PW.1 or PW.3 or criminal intimidation towards PW.1. Therefore, the prosecution treated her hostile to its case, and during cross examination by the prosecution, she admitted the prosecution version regarding alleged incident occurred on 12.07.2022. During her cross examination by prosecution, she admitted that in the complaint, her husband mentioned about hit by motorcycle, however the accused No.2 has not hit by motorcycle and he kicked him and assaulted by hands. In the cross examination of accused, it is elicited that while she went to the land, the accused persons were assaulting the PW.1 and at that time, the PW.3 was at the spot. Thus, on perusal of the evidence of PW.2, there are dual versions regarding her presence during inception of the incident and inconsistent evidences regarding the alleged incident.

30. The PW.3 and PW.4 are the eye witnesses to the alleged incident. According to prosecution case, PW.3 to 5 and 9 were at the spot and hearing the quarrel sound, they came to the incident spot and pacified the quarrel and while pacifying the quarrel, the accused no.2 abused the PW.3 touching his caste. As indicated above, the PW.5 and PW.9 have not supported the prosecution version. It is the evidence of PW.3-Venkataramana that, at 11.30 p.m., he was at Venkatapura bus stand and 5-6 persons at the spot. He could not able to say the names of those persons. It is his further evidence that a quarrel took place between the accused persons and PW.1 and accused No.2 assaulted the PW.2 in the incident and in the incident, the PW.1 sustained injury to his leg and they went to the spot and advised not to quarrel at the spot. On perusal of the evidence of PW.3, he could not specify the names of the persons at the bus stand and he also could not give complete account of the alleged incident. His evidence also does not show any abuse touching his caste by accused no.2. Therefore, the prosecution treated him hostile to its case regarding the incident alleged and during cross examination by prosecution, he admitted the prosecution version regarding the incident, however he denied the alleged

assault by accused no.5 and 6 and caste abuse towards him. In the cross examination by the accused also, he could not name the persons present at the bus stand. Though according to prosecution case the PW.3 to 5 and 9 were present at the bus stand during the incident, the PW.3 could not specify their names. So, his presence at the bus stand during the incident is not reliable. On perusal of the entire evidence the PW.3, he gave dual versions regarding the incident alleged. Apart from that, his evidence does not show any caste abuse towards him as alleged by the prosecution.

31. The PW.4-Nagaraj is close relative of PW.1 and PW.2, and according to prosecution during the incident he was also present at the bus stand and hearing the quarrel sound he came to the spot. It is the evidence of PW.4-Nagaraj, while he was at Venkatapura bus stand at 11.30 a.m, the alleged incident took place at the land of PW.1. It is his further evidence that the accused No.2 assaulted the PW.1 and PW.2, and PW.1 sustained injury to his hands and legs; they pacified the quarrel and he shifted the PW.1 and PW.2 to the hospital. On perusal of the evidence of PW.4, his evidence is not consistent to the prosecution version and he also could not give complete account of the alleged incident. As

such, the prosecution treated him hostile to its case, and during cross examination by the prosecution, he admitted the prosecution version regarding the incident. In the cross examination by the accused, he stated that he shifted the PW.1 and 2 in an auto for medical treatment and from Chelur, he took the PW.1 and 2 to the hospital in an ambulance. In the cross examination by the accused, he also stated that the PW.1 was unconscious and he got admitted the PW.1 and 2 to the hospital and they might have admitted for 4-5 days. However, such evidences of PW.4 is contradictory to prosecution case. On perusal of the entire evidence of PW.4, it also reflected dual versions regarding the incident and contradictory evidences to the prosecution case.

32. The PW.7-Dr.Mubarak is the medical officer who treated the PW.1 and PW.2 and as per his evidence, the PW.1 sustained grazed linear abrasion over right forearm measuring 1x5 cm, linear abrasion over anterior aspect of both legs, tenderness over left knee and restrictions of movement of left knee. On examination of PW.2, he found grazed linear superficial abrasion over anterior aspect of both legs measuring 1x5 cm, linear superficial abrasion over anterior aspect

of right forearm measuring 1x4 cm. The PW.7 opined that the injuries sustained by the PW.1 and PW.2 are simple in nature and he has issued the wound certificates at Ex.P.17 and P.18.

33. In the cross examination of PW.7, it is elicited that nobody accompanied the PW.1 and PW.2 during their visit to the hospital. So, the evidence of PW.4 a close relative of PW.1 and PW.2 that he accompanied the PW.1 and PW.2 to the hospital falsified by the evidence of PW.7. In the cross examination of PW.7- medical officer, it is further elicited that during the visit of PW.1 he was normal. Therefore, the evidence of PW.1 that he was unconscious after the assault and he regained the conscious after eight days, and evidence of PW.4 that the PW.1 was unconscious, while shifting the PW.1 to the hospital are also falsified by the medical evidence placed. In the cross examination of PW.7 medical officer, it is further elicited that PW.1 admitted as in patient on 12.07.2022 and he does not know when he discharged from the hospital. In the evidence of PW.1 he has stated he regained conscious after eight days and PW.2 stated they admitted at Bagepalli hospital for about one week and PW.4 in his cross examination stated that the PW.1 and 2 might

have admitted for 4-5 days, however there is no material to show that the PW.1 and PW.2 have admitted in the said hospital for about one week. At this juncture, it is relevant to mention that admittedly the PW.1 lodged the complaint at Ex.P.1 and as per the prosecution case, the PW.1 personally visited the police station on next day of incident. So, the evidence of PW.1, PW.2 and PW.4 that they have admitted at Bagepalli hospital for about one week has no substance. So, it appears that there are exaggerated versions in the evidence of PW.1, 2 and 4.

34. In the cross examination of PW.7 medical officer, it is also elicited that the PW.1 narrated the history regarding the injury with the help of two wheeler by the accused No.2. Though the medical history and Ex.P.1 complaint, which came to be lodged on the next day of incident, reflected the accused No.2 caused the injury sustained by PW.1, it is not the prosecution case that the accused No.2 caused to the injury by his motorcycle. So, it appears that during the investigation stage, the prosecution changed its version for unknown reasons. This unexplained circumstance, creates a strong doubt about the prosecution case.

35. Thus, on perusal of the evidences of PW.1 to PW.4, their evidences reflected dual versions regarding the incident and their evidences suffer from material contradictions, inconsistencies, exaggeration and doubtful circumstance. No doubt, the medical evidence placed reflected certain injuries to the PW.1 and PW.2, but the evidence of PW.1 to PW.4 suffer from infirmities which render their evidences unreliable regarding the incident alleged. Indisputably, there is dispute regarding the property bearing Sy.No.36/6 between the PW.1 and 2 and accused persons, and the false implication of the accused No.1 to 6 are also cannot ruled out.

36. Thus, on appreciation of the material evidence on record, the evidence of PW.1 to PW.4 are not worthy of credence and cannot reliable to prove the alleged incident. Though the medical evidence placed reflected minor injuries to PW.1 and PW.2, the evidence placed through PW.1 to PW.4 are not reliable regarding the incident alleged as it suffers from infirmities. The other eye witnesses cited PW.5, 6, 9 and 10 have not supported the prosecution version regarding the alleged incident. There is civil dispute between the parties with regard to the property bearing Sy.No.36/6

of Venkatapura village and false implication also can not ruled out. Though the prosecution able to show that the PW.1 to 3 are the members of scheduled caste as discussed in point no.1, it has failed to produce cogent, consistent and reliable evidence to prove the alleged incident occurred at 11.00 a.m. on 12.07.2022 at the road while the PW.1 and 2 were proceeding to bring the water to pour the water to the coconut trees grown at the said land bearing Sy.No.36/6 of Venaktapura village, beyond reasonable doubt. Hence, the prosecution has failed to prove the alleged offences punishable under Sec.143, 147, 323, 504, 506 r/w Sec.149 of IPC, Sec.3(1)(r),(s) of SC/ST (POA) Act. Hence, I hold the point No.2 to 8 are in the **negative**.

Point No.9:

37. The prosecution alleged that the accused no.1 to 6 the members of non-scheduled caste and non-scheduled tribe have committed the offences punishable under Sec.143, 147, 323, 506 of IPC, which are schedule offences with the knowledge that the PW.1 and PW.2 are Bhovi caste, and PW.3 is a member of Adi-Karnatak caste, which are Scheduled caste. Hence, the prosecution alleged that the accused no.1 to

6 have committed the offence punishable under Sec.3(2)(va) of SC/ST (POA) Act.

38. As discussed above point no.1, the prosecution has proved the caste of the accused no.1 to 6 and PW.1 and 2, however as discussed in point no.2 to 8, the prosecution has failed to prove the alleged offences punishable under Sec.143, 147, 323, 506 of IPC, which are schedule offences under IPC. Hence, the offence punishable under Sec.3(2)(va) of SC/ST (POA) Act are not proved against the accused no.1 to 6. Hence, I hold the point no.9 is in the **negative**.

Point No.10:

39. Thus, in view of my aforesaid discussion on point No.1 to 9, I proceed to pass the following:

ORDER

Acting under Sec.235(1) of Cr.P.C., the accused no.1-Venkataravanappa @ Beerangi Venkataravanappa, accused no.2-Jagadish S/o Chinnavenkataravanappa, accused No.3-Vanitha V. W/o Jagadish, accused no.4-Chinnavenkataravanappa S/o Beerangi Subbanna, accused no.5-

Jayarathnamma W/o
Chinnavenaktaravanappa, accused
No.6-Venkatamma W/o B.
Venkataravanappa, are **acquitted** for
the offences punishable under Sec.143,
147, 323, 504, 506 r/w Sec.149 of IPC,
Sec.3(1)(f),(r),(s), 3(2)(va) of SC/ST
(Prevention of Atrocity) Amendment
Act, 2015.

The bail bonds executed by the
accused no.1 to 6 and their sureties
shall be in force for a period of six
months from this date as per section
437-A of Cr.P.C.

*(Dictated to the STENOGRAPHER directly on computer,
computerized by him, after corrections, signed and then
pronounced by me in the open court on this the 14th day of
August - 2023.)*

Sd/-

(SHIVAPRASAD K.B.)

I Addl. District & Sessions Judge,
Chikkaballapur

* * * * *

ANNEXURE**I. List of witnesses examined for the prosecution:**

PW.1	Bhovi Ramappa
PW.2	Nagamma
PW.3	Venkataravana
PW.4	Nagaraja
PW.5	Munendra
PW.6	Ramachandra
PW.7	Dr. Mubarak
PW.8	Peersab
PW.9	Srinivasa
PW.10	Anjaneyappa
PW.11	Srinath
PW.12	Babu
PW.13	V.K. Vasudev

II. List of documents exhibited for prosecution:

Ex.P.1	Complaint
Ex.P.1(a),(b)	Signature of PW.1, PW.8
Ex.P.2	Sec.164 of Cr.P.C. statement of PW.1
Ex.P.2(a) to (c)	Signature of PW.1
Ex.P.3	Portion statement of PW.1
Ex.P.3(a)	Portion statement of PW.1
Ex.P.4	Portion statement of PW.4
Ex.P.5	Portion statement of PW.3
Ex.P.6	Police notice
Ex.P.6(a) to (d)	Signature of PW.4, PW.5, PW.11, PW.13
Ex.P.7	Spot panchanama

Ex.P.7(a) to (d)	Signature of PW.4, PW.5, PW.11, PW.13
Ex.P.8	Rough spot sketch
Ex.P.8(a) to (d)	Signature of PW.4, PW.5, PW.11, PW.13
Ex.P.9 to P.14	Photographs
Ex.P.9(a), 10(a), 12(a), 14(a)	Signatures of PW.12
Ex.P.9(b),10(b),12(b), 14(b)	Signature of PW.13
Ex.P.15	Portion statement of PW.5
Ex.P.16	Portion statement of PW.6
Ex.P.17, P.18	Wound certificates
Ex.P.17(a), 18(a)	Signature of PW.7
Ex.P.17(b), 18(b)	Signatures of PW.13
Ex.P.19	Caste report relating to PW.1, PW.2, accused no.1 to 6
Ex.P.19(a)	Signature of PW.13
Ex.P.20	Apprehended the accused no.1
Ex.P.20(a)	Signature of PW.13
Ex.P.21	FIR
Ex.P.21(a)	Signature of PW.8
Ex.P.22	Portion statement of PW.9
Ex.P.23	Portion statement of PW.10
Ex.P.24	Certificate under Sec.65-B of Indian Evidence Act
Ex.P.24(a), (b)	Signature of PW.12, PW.13
Ex.P.25	Investigation order
Ex.P.25(a)	Signature of PW.13
Ex.P.26	True copy of FIR in Cr.No.98/2022
Ex.P.26(a)	Signature of PW.13
Ex.P.27	Copy of complaint by Venkatamma

Ex.P.28	RTC
Ex.P.28(a)	Signature of PW.13
Ex.P.29	Mutation
Ex.P.29(a)	Signature of PW.13

III. List of witnesses examined for the defence:

	-nil
--	------

IV. List of documents exhibited for defence:

	-nil
--	------

V. List of material objects marked in this case:

	NIL
--	-----

(SHIVAPRASAD K.B.)I Addl. District & Sessions Judge,
Chikkaballapur
