

KACN210010452022

**IN THE COURT OF SENIOR CIVIL JUDGE AND J.M.F.C****GUNDLUPET**23rd February 2024

Present

Sri.BASAVARAJ TALAWAR B.A., L.L.B.,**Senior Civil Judge and J.M.F.C.****C.C. 604/2022**

Complainant Gundlupet Police station
(Represented by Learned A.P.P.)

Versus

Accused 1 Vijay S/o Naganayaka
Aged about 42 years,
2 Naganayaka S/o late Chikkabellannayaka
Aged about 66 years
3 Rama @ Ramanayaka S/o Naganayaka
Aged about 36 years
All are residing at Ingalavadi village,
Gundlupet Taluk.
(Sri.H.S.P., Advocate)

JUDGMENT

This is a Charge Sheet filed by the P.S.I., Gundlupet Police station against the above-named accused persons alleging the commission of offences punishable under Section 341, 323, and 506 R/w 34 of the Indian Penal Code.

2.The brief facts of the prosecution case is that: On 03.09.2021 at about 11.00 A.M., in Gundlupet town police station in the parking place the accused persons picked quarrel with the CW1, given life threat. The accused No.1 wrongfully restrained the CW1. The accused persons assaulted the CW1 with hands voluntarily caused simple injuries. Thereafter, complainant filed the complaint against the accused persons. After the investigation of the case, the investigation officer has filed the charge sheet against the accused persons for the aforesaid offences. After filing the charge sheet, cognizance was taken and the case was registered against the accused persons.

3.In response to the summons, the accused persons appeared before the court and thereafter got enlarged on court bail for the above said offences. The charge was framed and read over to the accused persons The accused persons pleaded not guilty and claimed to be tried.

4.To prove the case, the prosecution has examined complainant as PW1, two documents marked as Ex.P1 and Ex.P2.

5.The prosecution witnesses turned hostile. There was no incriminating evidence against the accused persons. Hence, the recording of the statement under section 313 of the Criminal Procedure Code (Cr.P.C) was dispensed with.

6.From the above facts, evidence, and arguments, the following points arise for my consideration:

1. Whether the prosecution proves beyond all reasonable doubt that, on 03.09.2021 at about 11.00 A.M., in Gundlupet town police station in the parking place the accused persons picked quarrel with the CW1, given life threat and thereby committed the offences punishable U/Sec.506 R/w 34 of the Indian Penal Code?
2. Whether the prosecution further proves beyond all reasonable doubt that, on the above-said date, time, and place, the accused No.1 wrongfully restrained the CW1 and thereby committed the offences punishable U/Sec.341 R/w 34 of the Indian Penal Code?

3. Whether the prosecution further proves beyond all reasonable doubt that, on the above-said date, time, and place, the accused persons assaulted the CW1 with hands voluntarily caused simple injuries and thereby committed the offences punishable U/Sec.323 R/w 34 of the Indian Penal Code?

4. What order?

7. My findings on the above points are as under:

Point no.1 In the Negative

Point no.2 In the Negative

Point no.3 In the Negative

Point no.4 As per the final order for the following

REASONS

8. **Points No.1 to 3**: All points are taken together for a common discussion to avoid repetition. In order to prove the case the prosecution has examined the complainant as PW1, this witness deposed that, CW3 is his sister, CW2, 3, 5 and accused are known persons. On 3.09.2021 at about 11 A.M., in Gundlupet police station parking area a casual quarrel took place between accused persons and him. The accused persons

not assaulted with anything, not given life threat, not restrained. He was identified his signature in the complaint and mahazar, which are marked as Ex.P1 and Ex.P2, signature marked as Ex.P1(a) and Ex.P2(a) and he don't know the contents of the Ex.P1 and Ex.P2. He was not given any restatement before the police. The learned APP treated this witness as hostile and cross-examined. In the cross-examination, this witness denied the suggestions of the learned APP. Further deposed that, the accused and he compromised the case out of the court.

9.The learned APP prays for issuance of summons to other witnesses, if other witnesses' evidence is recorded, no purpose would serve as material witness turned hostile. Hence, the prayer of the learned APP was rejected. As per the aforesaid discussion, there is no iota of truth in the prosecution story. Therefore the prosecution failed to prove the guilt against the accused persons beyond all reasonable

doubts. Accordingly, I answer the above point No.1 to 3 in the Negative.

10.Point No.4: For the reasons discussed in the above points, I proceed to pass the following:

ORDER

Acting under section 248(1) of the Criminal Procedure Code (Cr.P.C) the accused No.1 to 3 are hereby acquitted for the offences punishable under Section 341, 323, and 506 R/w 34 of the Indian Penal Code.

Bail bonds of the accused persons and surety stand cancelled.

(Dictated to the Stenographer directly on the computer, typed by him and corrected by me and then pronounced in the open Court on this 23rd day of February 2024)

(Basavaraj Talawar)
Senior Civil Judge & JMFC.,
Gundlupet

ANNEXURE

Witness examined on behalf of Complainant:

PW1 : Chikkanayaka

Documents marked on behalf of the Complainant

Ex.P1 : Compliant

Ex.P1(a) : Signature
Ex.P2 : Mahazar
Ex.P2(a) : Signature

Witness examined on behalf of Accused: Nil

Documents marked on behalf of the Accused: Nil

Material Object marked through prosecution: Nil

(Basavaraj Talawar)
Senior Civil Judge & JMFC.,
Gundlupet

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