

KAKL400002312016



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

: PRESENT :

Sri. **Harish G.**, M.B.A., L.L.B.,
Prl. Civil Judge & JMFC., Mulbagal.

Dated: this the 21st day of February, 2026.

C.C. No.62/2016

Complainant : State by Mulbagal Town PS.,
Mulbaggal
[By Asst. Public Prosecutor]

-Vs-

Accused : Sonnappa & Anr.

- - -

ORDER

The learned APP., has filed application U/Sec.319 of Cr.PC., to implead the proposed accused by name- Basha Sabi as accused No.3 in the present case as per evidence of CW.1/PW.4.

2. After filing this application, the proposed accused has appeared through his counsel and has not filed any objections.

3. I have heard both sides and perused the materials on record.

4. The following points arise for consideration;

1. Whether the prosecution able to prove that, the proposed accused No.3 has committed an offence for which he could be tried together with accused No.1 & 2?

2. What order?

5. My findings to the above points are as under;

Point No.1 : In the **Affirmative**,

Point No.2 : As per the final order,
for the following;

REASONS

6. **Point No.1:** Power to summon an additional accused U/ Sec.319 of Cr.PC., to face trial is discretionary and cannot be fettered either by calling it extraordinary or exercisable only in exceptional circumstances. Twin requirements for summoning the additional accused U/Sec.319 of Cr.PC., are as under;

1. That from the evidence it appears to the Court that such person has committed any offence;

2. That such a person could be tried together with accused already facing trial.

7. On going through case file, the CW.1/PW.4 has lodged complaint before the Mulbagal Police stating the accused No.1 & 2 with their children and proposed accused by violating the order of the Court have cut down the eucalyptus tree grown in Sy.No.34 of Nicchanakunte village over which there is a civil litigation pending for consideration. It is further alleged that, on questioning about cutting said trees the accused No.1 & 2 and their children by forming an unlawful assembly with weapons and out of them the accused No.2 assaulted CW.1 and proposed accused has instigated the accused No.1 & 2 to commit an offence against him stating he could fund an amount. Mulbagal police upon said first information statement have registered an FIR against present accused No.1 & 2 along with additional accused. The Investigating Officer., after conclusion of investigation has filed charge-sheet only against accused No.1 & 2 & has dropped additional accused sought in the present application contending no any offence committed by him.

8. After filing of charge-sheet, this Court took cognizance for an offence punishable U/Sec.323, 504, 506 r/w Sec.34 of IPC against accused No.1 & 2. These accused persons were appeared through their counsel and were enlarged on bail.

This Court after framing charge, has read over the same and was denied by accused No.1 & 2. CW.1 is examined as PW.4 on 24.02.2025 and has deposed as under;

"ಚಾಸಾ-2 ರಿಂದ 5 ರವರ ಪರಿಚಯ ಇರುತ್ತದೆ. ದಿ:23.10.2015 ರಂದು ಬೆಳಿಗ್ಗೆ 10.30 ಕ್ಕೆ ಸ.ನಂ.34 ರಲ್ಲಿ ನಿಚ್ಚನಕುಂಟೆ ಗ್ರಾಮದಲ್ಲಿ ಸದರಿ ಆಸ್ತಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ವ್ಯಾಜ್ಯ ಇದ್ದು, ಅದರಲ್ಲಿ ನೀಲಗಿರಿ ಮರಗಳು ಇದ್ದು, ಸದರಿ ಮರಗಳನ್ನು ಸೋಣ್ಣಪ್ಪ, ರಾಮಕೃಷ್ಣಪ್ಪ, ಬಾಷಾ ಎನ್ನುವವರು ಕಟಾವು ಮಾಡಿರುತ್ತಾರೆ. ನಾನು ಅದನ್ನು ತಡೆಯಲು ಹೋದಾಗ ಅವರು ನನ್ನನ್ನು ಸಾಯಿಸುವುದಾಗಿ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. ಬಾಷಾರವರು ಎಷ್ಟು ಹಣ ಖರ್ಚಾದರೂ ಪರವಾಗಿಲ್ಲ ನನ್ನನ್ನು ಸಾಯಿಸುತ್ತೇನೆಂದು ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾರೆ. 2 ನೇ ಆರೋಪಿ ದೊಣ್ಣೆಯಿಂದ ನನ್ನ ಎಡಭಾಗದ ಸೊಂಟಕ್ಕೆ ಹೊಡೆದಿರುತ್ತಾನೆ. 1 ನೇ ಆರೋಪಿ ಮಚ್ಚಿನಿಂದ ಹಲ್ಲೆ ಮಾಡಲು ಬಂದಿದ್ದು, ನಾನು ತಪ್ಪಿಸಿಕೊಂಡಿರುತ್ತೇನೆ. ಚಾಸಾ-2 ಮತ್ತು 3 ರವರು ಜಗಳ ಬಿಡಿಸಿರುತ್ತಾರೆ. ಸದರಿ ಘಟನೆಗೆ ಬಾಷಾರವರು ಕಾರಣರಾಗಿರುತ್ತಾರೆ."

9. As stated supra, summoning of additional accused U/Sec.319 of Cr.PC., without evidence is improper. In the case on hand, there is clear and cogent evidence against the additional accused to make him to stand for trial U/Sec.319 of Cr.P.C., in the examination-in-chief of PW.4 in consonance with Ex.P1 first information statement. Thus, the prosecution has made out sufficient grounds or likelihood to try the additional accused in the case on hand as twin requirements has been complied with. With these observations, I answer point No.1 in the Affirmative and I proceed to pass the following;

ORDER

The application filed by the learned APP., U/Sec.319 of Cr.PC., is hereby ***allowed.***

Additional accused by name-Basha Sabi is arrayed as accused No.3 in the present case to try along with accused No.1 & 2.

(Dictated to the Stenographer Grade-III directly on computer, computerized by him, corrected by me and then pronounced in Open Court on this the **21st day of February, 2026**)

[Harish G.]

Prl. Civil Judge & JMFC., Mulbagal.