

**IN THE COURT OF THE V ADDITIONAL DISTRICT
& SESSIONS JUDGE, MANDYA**

:PRESENT:

SRI. M.C. NANJEGOWDA, B.A.L., L.L.M.,
V Addl. District & Sessions Judge, Mandya.

Dated **24th** Day of **July, 2026**

Crl.Appeal.No.58/2024

APPELLANT/S:

1. Ramalingegowda,
S/o Late Nagaraju,
Aged about 44 years,
2. Pradeepa, S/o Late Nagaraju,
Aged about 39 years,
Both are R/at 7th Cross,
Kallahalli, V.V.Nagar,
Mandya City.
3. Keerthi, S/o Kempegowda,
Aged about 38 years,
R/at Kallahalli,
V.V.Nagar,
Mandya City.
4. Manjesh, S/o Late Rajanna,
Aged about 29 years,
R/at 3rd Cross, V.V.Nagar,
Kallahalli, Mandya City.

(By Sri. **T.S.S.**, Advocate)

Vs.

RESPONDENT/S:

State by,

Mandya West Police Station, Mandya.
(Represented by **Public Prosecutor**,
Mandya)

ORDER

The appellants/accused persons have filed this Appeal U/Sec.374 (3) of Cr.P.C challenging conviction Judgment passed by the court of learned Principal Senior Civil Judge and CJM., Mandya in CC No.321/2020 dated 16.04.2024 for the offences punishable under Section 341 and 323 read with Section 34 of IPC.

2. The case of the prosecution in brief in the trial court was that, on 12/4/2019 the accused No.1- Ramaligegowda called Cw1/Pw1-Ashoka and asked him to come near the Auto Stand situate near Dharmashree Samudayabavana, Mandya city. Accordingly, Pw1 went

near Autorickshaw stand at 10.45pm wherein the accused No.1 questioned Pw1 about filing a suit by his mother against her brother and demanded Pw1 to withdraw the said suit. When Pw1 stated that the suit was filed by his mother, and not by him and hence he has to ask his mother herself, the accused No.3 wrongly fully restrained Pw1 from back side and accused No.1 assaulted Pw1 by hand on his face. When Pw1 tried to escape from the accused people, the accused No.2 and 4 pushed Pw1 on the ground and kicked him with legs. They also dragged Pw1 and assaulted him by hand. The Accused No.1 instigated the other accused people to kill Pw1 and threatened him to take away his life and thereby all the accused persons committed the offences punishable under section 323, 341, 504, 506 and 114 of IPC read with section 34 of IPC.

3. On receipt of summons issued by the trial court, the accused have appeared before trial court through their advocate. The trial court has framed the charges for the above-mentioned offences and read over and explained to them and the accused have pleaded not guilty and claimed to be tried. The trial court has recorded the evidence of five witnesses and marked as many as 4 documents. The trial court also examined the accused under section 313 of code of criminal procedure and after hearing both, the trial court convicted the accused No.1 to 4 for the offences punishable under section 323 and 341 of IPC and however, it has acquitted them for the offences punishable under section 504, 506 and 114 of IPC. The trial court, however, has not sentenced the accused persons. But it has given the benefit of section 3 and 4 of Probation of Offender Act to the accused persons and released them after due admonition. It also has directed them to pay Rs. 6000/-

compensation by exercising the powers conferred under section 6 of the act. Only in default, they are ordered to undergo the simple imprisonment for period of 3 days each.

4. Being aggrieved by the said order/judgement of the trial court, the appellants-Accused people have preferred this appeal before this court on the **following grounds.**

5. The impugned judgment of conviction dated 16.04.2024 passed in C.C.No.321/2020 by the Prl. Senior Civil Judge and C.J.M Court, Mandya, is fundamentally bad in law and facts, and the Appellants No.1 to 4 are liable to be acquitted of the offences under Sections 341 and 323 read with Section 34 of IPC. While the prosecution alleges that the accused wrongfully restrained and physically assaulted the complainant

(C.W.1/P.W.1), the claim that Appellant No.1 summoned the complainant via telephone is completely unsupported, as the complaint fails to specify any mobile numbers, and the prosecution failed to produce call detail records (CDRs) to prove this communication. Furthermore, although the alleged incident occurred near an auto stand surrounded by commercial shops, a milk booth, and a hotel, P.W.5 (the Investigating Officer) failed to examine any local independent shopkeepers, and deliberately suppressed the truth by failing to collect available CCTV footage from the police traffic cameras or the nearby Dharmashree Kalyanamantapa. This fatal investigative gap is compounded by the fact that the spot mahazar was fabricated at the police station using non-local, engineered witnesses specifically P.W.2 from Kaverinagar and C.W.6 from Srirangapattana Taluk rather than local inhabitants, with C.W.6 ultimately being dropped by the prosecution to hide this defect. By failing to properly

appreciate the total lack of CDR evidence, the exclusion of critical CCTV footage, the absence of independent local witnesses, and the falsified nature of the spot mahazar, the learned Trial Court erred significantly, rendering the conviction wholly unsustainable.

6. The further case of the prosecution that, they completely falsify the presence of the alleged eyewitness, P.W.2 (Devaraju). While P.W.2 deposed in his examination-in-chief that Accused No.1 violently assaulted P.W.1 on the right eye ("1 ನೇ ಆರೋಪಿಯವರು ಅವರ ಕೈಯಿಂದ ಚಾಸಾ.1 ರವರ ಬಲಗಣ್ಣಿಗೆ ಜೋರಾಗಿ ಹೊಡೆದರು"), the medical officer explicitly deposed that the swelling was near the left eye, exposing a fatal contradiction. This fabrication is completely unmasked by P.W.1's own cross-examination, where he explicitly admitted that nobody else was present except himself and the accused when the incident occurred (ಘಟನೆಯಾದಾಗ ನನ್ನ ಹಾಗೂ ಆರೋಪಿಯವರನ್ನು ಹೊರತುಪಡಿಸಿಬೇರೆ

ಯಾರು ಇರಲಿಲ್ಲ."). Furthermore, when detailing the individuals who arrived after the altercation including his maternal uncle Kariyappa, neighbor Guru's mother, and nearby tenants P.W.1 made absolutely no mention of P.W.2, proving that P.W.2 is merely a close friend deposing falsely at P.W.1's instigation. Additionally, P.W.1 claimed that C.W.2 and C.W.6 shifted him to the District Hospital, Mandya, yet the prosecution purposefully dropped C.W.6 to conceal the fact that he is actually a non-local resident of Srirangapattana Taluk. P.W.1 also admitted that two auto-rickshaws were stationed at the spot when he arrived ("ಆ ದಿನ ನಾನು ನಡೆದುಕೊಂಡು ಬಂದಾಗ ಆಟೋ ನಿಲ್ದಾಣದಲ್ಲಿ 2 ಆಟೋಗಳು ಇದ್ದವು. ಆಟೋ ಚಾಲಕರು ಯಾರು ಎಂದು ನನಗೆ ಗೊತ್ತಿಲ್ಲ ."), yet the Investigating Officer failed to examine these independent auto drivers or any neighboring shopkeepers, highlighting a fatal investigative lacuna. Finally, the authenticity of the entire case is destroyed by a timeline discrepancy: the complaint asserts the incident

occurred at 10:45 p.m. on 11.04.2019, but the medical officer, Dr. Sumalatha, recorded the time of the alleged clash as 10:30 p.m., proving that the wound certificate was concocted in collusion with the doctor to falsely implicate the accused. By failing to evaluate these devastating contradictions, the unexplained absence of local witnesses, and the clear manipulation of medical records, the learned Trial Court arrived at a wholly erroneous and unsustainable conclusion of guilt. In the statement of P.W.2/C.W.2 Devaraju recorded by the Investigating Officer, it is clearly stated at lines 3 and 4 that “ಅದೇ ಸಮಯಕ್ಕೆ ಕಲ್ಲಹಳ್ಳಿ ನಿವಾಸಿಯಾದ ಲೇಟ್ ದೊಡ್ಡಣ್ಣರವರ ಮಗನಾದ ಕರಿಯಪ್ಪ ಕೂಡ ವಿ.ವಿ.ನಗರದ ಕಡೆಯಿಂದ ಹಳೆ ಕಲ್ಲಹಳ್ಳಿ ಕಡೆಗಾದಂತೆ ಹೋಗಲು ಆಟೋ ನಿಲ್ದಾಣದ ನೇರಕ್ಕೆ ಬಂದರು,” yet this Kariyappa was never made an eyewitness to the alleged incident, nor did P.W.2 ever depose to his presence during his evidence, which clearly shows that the alleged incident never occurred and that P.W.1 and P.W.2, being close friends, colluded to knit

a false story in view of pending property civil litigation. Furthermore, P.W.3/Dr. Sumalatha D.C. admitted in her cross-examination that “ಒಬ್ಬ ವ್ಯಕ್ತಿ ಕುಡಿತದ ಮತ್ತಿನಲ್ಲಿ ದ್ವಿಚಕ್ರ ವಾಹನದಿಂದ ಬಿದ್ದಾಗ ಈ ರೀತಿಯ ಗಾಯಗಳು ಆಗಬಹುದು ಎಂದರೆ ಸರಿ,” thereby establishing that the possibility of P.W.1 falling from a two-wheeler and sustaining the injuries mentioned in the Ex.P.3 Wound Certificate cannot be brushed aside, especially since the Medical Officer produced the Accident Register showing the injured appeared for treatment on 12.04.2019 at about 12:50 midnight, whereas the complaint was only lodged at about 11:30 a.m. later that day. This unexplained 13-hour delay in approaching the Mandya West Police after receiving treatment casts serious doubt on the genuineness of the alleged incident, a crucial fact that was completely overlooked and not properly considered by the Trial Court. The Trial Court failed to consider the inordinate delay in filing the

complaint, registering the case, and forwarding the FIR before passing the impugned Judgment of Conviction.

7. The medical evidence shows a 4x3 cm scratch injury on the left forearm, swelling near the left eye, and pain in the right knee joint, which directly contradicts the testimony of P.W.1 who claimed that the accused pushed him down, stamped on his ribs, and caused scratches on both forearms. Had the accused genuinely stamped on his ribs or assaulted his stomach, the complainant would have reported chest or stomach pain to the doctor, and corresponding clinical findings like swelling or tenderness would be present. This stark variance raises a serious doubt regarding the alleged assault using hands and legs, a critical factual discrepancy that the Trial Judge failed to properly weigh during cross-examination, leading to an erroneous conviction under Sections 341 and 323 read with Section 34 of the IPC despite the clear absence of

wrongful restraint or physical assault. Furthermore, the prosecution's case is highly unbelievable because the Investigating Officer failed to cite or record statements from local eyewitnesses, collect available CCTV footage, or secure local inhabitants for the mahazar, relying instead on witnesses from entirely different addresses. The common intention required for conviction is completely absent, as P.W.1's close friend, Devaraju, only partly supported the case with highly contradictory statements, and the examining medical professional explicitly opined that the sustained injuries are entirely consistent with a fall from a motorcycle rather than an assault, thereby making the appellants fully eligible for an acquittal.

8. The Investigating Officer completely failed to comply with the statutory provisions of the Code of Criminal Procedure regarding the preparation and preservation of contemporary documents, demonstrating

a perfunctory, non-bonafide, and deeply suspicious conduct that directly violates the foundational mandate established by the Hon'ble Supreme Court in **Jamuna Chaudhari and others Vs. State of Bihar (1974 AIR 1822)**, which dictates that an investigator's paramount duty is to unearth the untarnished truth rather than bolster a biased prosecution case to secure a forced conviction. This pre-determined, malicious intent to falsely implicate the appellants at any cost is heavily mirrored in the legal principles laid down in **Gargi Vs. State of Haryana ((2019) 3 SCC (Crl.) 785)** and **Prakash Vs. State of Karnataka (2014(2) Crimes 207 S.C. Paras 71-72)**, because the gross omission to examine independent local witnesses, collect deterministic CCTV footages from the auto stand, or track the phone call records of Accused No.1 and the complainant proves that the investigation was an engineered exercise of prejudice that led to a grave miscarriage of justice. Consequently, the testimonies of

P.W.1 to P.W.5 are entirely untrustworthy, unreliable, and stripped of any legal credence, as they represent nothing more than planted, propped-up, and highly interested witnesses consisting of blood relatives (P.W.1 Ashoka and P.W.4 Sakamma) and a close friend (P.W.2 Devaraju) whose statements are riddled with uncorroborated contradictions. Ultimate prejudice is caused by the complete non-examination of actual independent eyewitnesses and local shopkeepers, demonstrating that the Ld. Trial Judge heavily misdirected the law by passing an erroneous conviction under Sections 341 and 323 read with Section 34 of the IPC, which now threatens to unjustly ruin the livelihood, professional stability, and government service of Appellant No.1 as a dedicated K.E.B. employee on the back of malicious civil litigation. Therefore, the Appellant prays to allow the appeal as sought for.

9. After institution of the appeal this court has issued notice to the respondent-police. On behalf of the respondent, Learned PP appeared and contested the appeal.

10. Heard learned counsel for the appellant on 27/2/26 and heard the learned PP on 17/7/26.

11. Learned counsel for the appellant in the arguments has contended that the trial court has not rightly appreciated the fact that there was CCTV near the alleged incident spot, but the IO has not collected the said CC TV footage. Therefore, the Investigation officer has suppressed the material evidence. Therefore, it shall be deemed that the trial court has wrongly convicted the accused persons. The investigation officer has not even enquired with local inhabitants. It is further contended by the accused counsel that there is contradiction between the evidence of PW1 and Pw2. It is also contended that the investigation officer has not brought

one Kariyappa as witness to the charge sheet, though admittedly he was present at the time of alleged incident. The investigation officer has not conducted the investigation properly. He has conducted the investigation with pre-notion. Pw1, 2 and 4 are interested witnesses and hence their evidence cannot be relied upon. Inter alia other grounds the appellants have sought to allow the appeal and thereby acquit the accused for the offences punishable for the offences punishable under section 323 and 341 of IPC also.

12. Now, the points that arise for consideration of this court are:

1. Whether the trial court is justified in convicting the accused persons for the offences punishable under section 323 and 341 R/w Sec.34 of IPC?
2. What order?

13. After hearing both sides and considering the relevant materials on record, this court answers the above

Point No.1: **In the Negative.**

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

REASONS

14. **Point No.1:** At the very outset, it is pertinent to note that though the prosecution alleged that the appellants have committed the offences punishable under section 504, 323, 341, 114 506 read with section 34 IPC, the trial court after recording the evidence and hearing, has found guilty only for the offences punishable under section 323 and 341 read with section 34 of IPC. In the present case, it is to be noted that the accused people in their defense have denied the entire case of the prosecution. According to them there was no such incident that occurred and entire case of the prosecution is concocted for the purpose of creating pressure to withdraw the civil case pending between the mother of

Pw1 and his maternal uncle. Pendency of civil case is clearly admitted by Pw1 in the cross examination itself. As rightly contended by the counsel for the appellants, its to be noted that the Trial Court has examined one victim, one eyewitness, one hearsay witness, a doctor and police officials who registered the case and conducted part investigation. The prosecutor has not examined the IO, who filed the chargesheet. **It is well settled position of law that if two views are possible from the evidence of the prosecution, then the view which is favorable to the accused must be accepted by the courts.**

15. In the present case on mentioned above, it is to be noted that regarding occurrence of incident only the evidence of Pw1 and 2 is available on record. Though one more witness by name Kariyappa is cited as an eyewitness to the charge sheet, the prosecution has not chosen to examine the said witness before this court for

the reasons best known to it. Though the prosecution has examined Pw4-Sakamma, she is not an eyewitness to the incident. She is only a hearsay witness about the incident. Moreover, she is none other than the mother of Pw1. Therefore, her evidence does not carry much importance to prove the alleged incident.

16. Pw1 clearly admitted that when he shouted/screamed at the time of incident, two people of nearby houses came to the spot. Pw2 admitted that there were 10-15 people at the time of alleged incident. But admittedly the investigation officer has not brought any of them as witnesses to the incident. It is to be noted that, to explain the circumstances as to why those people are not brought as witnesses to the incident, the prosecution has not chosen to examine the IO who has filed the charge sheet. As such, it is significant to note that regarding the incident only the evidence of Pw1 and 2 has

remained for consideration. Pw1 is none other than the injured. Pw2 is admittedly a close friend of Pw2. Their close friendship is clearly admitted by Pw1 and as well Pw2 in their cross examination. It is true that just because they are friends their evidence cannot be disbelieved. If the evidence is believable and reliable otherwise this court can certainly rely upon the same. But it is to be noted that admittedly there is civil dispute between the mother of the Pw1 and his maternal uncle. The accused No.1, 3 and 4 are none other than the son in law and children of his maternal uncle. According to the own version of the prosecution the incident has occurred in the background of the civil case. According to the prosecution, only in order to force the mother of Pw1 to withdraw from the civil case, this alleged incident has occurred. Therefore, the evidence of Pw1 and 2 needs a careful strict examination.

17. It is to be noted that admittedly there is 12 hours of delay in lodging the first information. There is absolutely no explanation brought to that effect either in the first information or in the evidence of Pw1. On the contrary, it is to be noted that it has come in the evidence of Pw1 that he does not know what is written in the first information lodged as per Ex. P1. According to Pw1 first information is written by the police official by name Sri. Kalaiah. But according to Pw5-Doddaiah ASI of west police station, Pw1 brought the complaint/first information to the police station and based on the said information, he has registered the first information report. It is not his say that, first information was prepared by police Kalaiah, this indicate a material contradiction about the contents of Ex.P.1-first information. This shows that Pw1 does not know what is written in the first information. Kalaiah who admittedly wrote the first information is not examined before this court to prove the

contents of the first information. In fact, he is not even cited as witness to the charge sheet.

18. It is true that as observed by the trial court Pw3-Doctor has stated that Pw1 had come to the hospital and given the history of injuries as assault by the accused person. But the trial court failed to note that even before Pw1 approaching the doctor, he had met Pw4 who is his mother and Cw6-Kariyappa and others. In fact, according to evidence of PW.1, all of them including PW.2 had been to police station. Though the incident occurred at about 10:30-10:45, he went to police station 12.50pm. This shows that he went to hospital after consultation with his mother, Cw6-Kariyappa and PW.2, who are his close relatives and friends. He has clearly admitted that he had no difficulty going to the police station and lodging first information immediately after taking the treatment. From this circumstance, an inference can be taken that it, there

was no necessity of concoction, certainly the first information could have been lodged immediately. Otherwise he would atleast have said that he knows the contents of the first information. In fact, it is to be noted that Pw1 in his cross examination has clearly admitted that he does not know even the contents of the Ex. P2-Mahazar and who are all have signed the said Mahazar. These circumstances, in the evidence of Pw1 clearly indicate that there is something fishy in the case of the prosecution.

19. When it comes to the evidence of Pw2 also, it is to be noted that with regard to the incident, his evidence is contrary to the evidence of Pw1 on material circumstances. According to Pw1 due to the alleged assault by the accused, he sustained injury on his left eye. But according to the evidence of Pw2, Pw1 sustained injury to the right eye. Regarding Ex. P2-Mahazer also, he

has clearly admitted that he does not know the contents of the mahazer and the police has not issued any notice to him while coming to the spot. According to Pw2- he took Pw1 to the hospital. But according to Pw3-Doctor, no body was accompanied with Pw1. According to the cross examination of Pw1, except him and accused people, there were no any other people at the time of incident. But, he has not stated then how did Pw2 come into picture. These circumstances create doubt with regard to presence of Pw2 at the time of incident.

20. Above all it is to be noted that the prosecution has not examined the investigation officer who has filed the charge sheet. It is true that generally non-examination of IO would not affect the prosecution case. But in the present case, what is important is to be noted is that according to the own version of Pw1, the accused persons called him and asked him to come to Kallahalli Bus stand which is denied by the accused persons. In order to

substantiate the same, certainly the call details of the accused and Pw1 which is most technical evidence could have been collected by IO. At least, as rightly contended by the accused, the PW.1 could have mentioned the phone number in the first information and in his oral evidence. But, there is no such evidence forthcoming from the prosecution as the investigating Officer is not examined. Both Pw1 and 2 in the cross examination have clearly and categorically admitted that there were other people at the time of incident. But the investigation officer has not brought them as witnesses except Pw2 who is close friend of PW.1. To explain the circumstances as to why other people who are said to be present at the time of incident are not made as witness, the investigation officer evidence was very much relevant. But, this aspect of the matter is not considered by the trial court.

21. On overall reappraisal of evidence on record, it is very clear that the evidence of Pw1 and 2 is

inconsistent and contrary in material aspects of the prosecution case and admittedly there is a civil dispute between the accused and mother of Pw1 and therefore their evidence is not reliable in the absence of independent witnesses to the alleged incident. Non examination of Investigation officer is much fatal to prosecution case as there are/is no explanation from the prosecution as to why no technical evidence like call detail record of the accused and Pw1 is not collected and for not making the independent witness to the alleged incident, in-spite of the fact that there were independent witnesses very much available to the alleged incident according to the very evidence of Pw1 and 2. As such, from the evidence of Pw1 to 5- prosecution witnesses two views are possible. It is not possible to form opinion that the prosecution has proved its case beyond reasonable doubt against the accused persons. The trial court has not considered the facts and circumstances stated above

against the case of the prosecution and if they were considered, opinion of the Trial Court would be different than present one. Therefore, in the humble opinion of this court, the accused persons are entitled for benefit of doubt arisen out of the evidence of the prosecution. Hence, Trial Court is not justified convicting in its accused persons. Therefore, the judgment of the trial court needs to be reversed and accused persons have to be held acquitted for the alleged offences punishable U/s 341 and 323 R/w Sec.34 of IPC.

Accordingly, point No.1 is held in the Negative.

22. **Point No.2:** For the reasons and discussion made above and for the findings recorded, this Court proceeds to pass the following-

ORDER

**This appeal filed by the accused
No.1 to 4 challenging the conviction
judgment dated 16/4/24 passed in CC
No. 321/20 by the court of Learned**

**Principal Senior Civil Judge and CJM,
Mandya under section 374(3) of Cr.PC
is hereby allowed and the said
judgment of the trial court is hereby
set aside and accused-appellants are
held acquitted for the offences
punishable under section 341 and 323
R/w Sec.34 of IPC.**

**Bail bond and the surety bonds of
the accused persons/appellants shall
stand cancelled after expiry 6 months
from today.**

**Office to send the copy of this
judgment to the trial court along with
Trial court records forth without any
delay.**

(Dictation Typed by the Stenographer directly in the computer,
corrected and then pronounced by me in the Open Court, this the
24th day of July, 2026)

(M.C. NANJEGOWDA)
V Addl.District & Sessions Judge,
Mandya.