

KAMD410001482017



Presented on : 12-01-2017

Registered on : 13-01-2017

**IN THE COURT OF THE I ADDITIONAL CIVIL JUDGE
AND J.M.F.C., AT MALAVALLI**

:Present:

SMT. KAVYASHREE H.S.

I Addl.Civil Judge and JMFC.,
Malavalli

Dated this the **21st** day of **April 2026**

C.C.No.82/2017

COMPLAINANT/S: State by
Kirugavalu Police Station,
Malavalli Taluk, Mandya District..

(By Assistant Public Prosecutor)

- Vs-

ACCUSED:

1. Lokesh .B S/o Late Beregowda,
Aged about 31 years,
2. Nagaraju S/o Late Makanahalli Madaiah,
Aged about 45 years,
3. Abhishek S/o Nagaraju,
Aged about 45 years,
All are R/o Channapillekoppalu Village,

Kirugavalu Hobli, Malavalli Taluk,
Mandya District.

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

Date of offence	11-10-2016
Report of the offence	12-10-2016
Offences complained off	Offences Punishable U/Sec. 323, 324, 354, 504, 506 R/w Sec.34 of IPC
Name of the complainant	Sri. Madaiah
Commencement of recording Of evidence	22-03-2022
Closing of evidence	05-03-2026
Pronouncement of Judgment	21-04-2026
Opinion of Judge	As per final order

: J U D G M E N T :

1. The Police Sub-Inspector of Kirugavalu Police Station has submitted a final report against the accused persons, charging them with offences punishable under Sections 323, 324, 354, 504 and 506 read with Section 34 of IPC.

ARGUMENT CANVASSED BY STATE RPTD BY LD .A.P.P AND ACCUSED ATTORNEY

2. On careful consideration of the rival contentions, the learned APP has argued that CW1, CW2 being the victim has

supported the prosecution case and has spoken about the recovery of the M.O. wooden club under mahazar, and further that Ex.P3 wound certificate corroborates the assault attracting offences under Sections 323 and 324 IPC and such version is not wholly free from doubt. It is true that the injured witness has identified the M.O. and the medical evidence lends some support to the allegation of assault.

3. However, on the contrary, the defence has brought on record that there exists a counter case, wherein the accused persons had lodged a complaint on 11.10.2016, prior to the complainant's complaint dated 12.10.2016, thereby suggesting a motive for false implication due to prior enmity. Further, the complainant has turned partly hostile and material contradictions are elicited in his cross-examination, which go to the root of the prosecution case. Added to this, inconsistencies are also noticed in the evidence of PW4, thereby weakening the prosecution version. Hence, these material contradictions and the existence of a prior complaint create a reasonable doubt regarding the alleged offences, making it improvable to rely solely on the prosecution evidence.

4. Facts being stated by complainant is that on 11.10.2016 at about 1:00 PM, when the accused persons were conducting survey of a vacant land situated in front of CW1's house, a dispute arose as CW1 claimed that the said land belonged to him. At that juncture, the accused persons started abusing CW1 in filthy language, asserting that the land belonged to their ancestral property.

5. In the course of the quarrel, Accused No.1 assaulted CW1 with a wooden club, causing injuries on his right arm, right knee and chest. Simultaneously, CW2 was assaulted with a stone, resulting in injuries to his left eye and right hand, while Accused No.3 also assaulted him with hands.

6. When CW3 intervened to pacify the situation, Accused Nos.1 to 3 pulled her hair, assaulted her with hands, and threatened all of them with dire consequences to their lives thus informant lodged a First Information Report (F.I.R) under the aegis of **Section 154 of the Criminal Procedure Code (Cr.P.C)**. Following the conclusion of investigative proceedings, a police report was tendered in accordance with **Section 173(2)**

of the Cr.P.C, whereupon cognizance was assumed by this court pursuant to **Section 190(b) of the Cr.P.C**.

7. In this regard, the complainant, Sri. Madaiah initiated criminal proceedings by filing a report with the Police Sub-Inspector of Kirugavalu Police Station. Based on this report, the police registered a case under Crime No. 128/2016 for the alleged offences and submitted the FIR to this court.

8. Thereafter, the Investigating Officer visited the crime scene and prepared a mahazar in the presence of witnesses. He recorded statements from material witnesses, collected pertinent documents, and seized materials allegedly used in the commission of the offences. Upon completion of the investigation, the Investigating Officer submitted the final report.

9. Upon taking cognizance of the offences, a criminal case was registered, and summons were issued to the accused persons. The accused persons appeared before the court and were released on bail. The prosecution papers have been supplied to Accused persons as required under Section 207 of the Criminal Procedure Code.

10. Based on the prosecution materials on record, charges have been framed, read over, and explained to Accused persons in a language they understand. After comprehending the charges, the accused persons did not plead guilty and claimed a trial. Consequently, the case was scheduled for trial. Upon the reading and elucidation of the charges to the accused individuals, they entered pleas of not guilty and elected to stand trial. During their personal examination pursuant to Section 313 of the Cr.P.C, they repudiated all allegations and advanced the defense of being falsely embroiled in the matter.

11. To substantiate its case, the prosecution examined 9 witnesses, referred to as PW-1 to PW-9, and marked documents as Exhibits P.1 to P.8 and marked MO.1 and MO.2 and also marked Ex.D1 to D3.

12. I have heard the arguments from both sides.

13. The points that arise for my consideration are:

1. Whether, on the alleged date, time, and place, the accused persons, in furtherance of their common intention, outraged the modesty of CW-1 by pulling her hair and assaulting on her ?

2. Whether, at the alleged date, time, and place, the accused persons, in furtherance of their common intention, intentionally caused simple hurt to the victim, thereby committed the offence of voluntarily causing hurt?

3. Whether, at the alleged date, time, and place, the accused persons intentionally injured the informant with a wooden club thereby committed the offence of voluntarily causing hurt with a sharp-edged weapon?

4. Whether, on the alleged date, time, and place, the accused persons engaged in a quarrel and used abusive language, thereby committing the offence of breaching public peace.?

5. Whether, on the alleged date, time, and place, the accused persons, in furtherance of their common intention, threatened to cause death with the intent to cause alarm to the victim, thereby committing the offence of criminal intimidation.?

6. Whether there should be an acquittal or conviction.?

14. My answer to the above points are as follows:

Point No.1 to 5: In the Negative,

***Point No.6 : As per final order,
for the following:***

: Analysis :

15. **Point No.1 to 5:-** Since these points involve a common discussion, they are taken together for collective consideration to avoid redundancy of facts. In light of the interconnected nature of these points, they are collectively addressed to prevent

redundancy in recounting the facts of the case. The charges under consideration by this court pertain to Sections 323, 324, 354, 504 and 506 R/w Sec.34 of IPC. Pursuant to Section 102 of the Indian Evidence Act (hereinafter referred to as IEA), the burden of proof rests with the prosecution. Guided by the cardinal principle of criminal jurisprudence, the presumption of innocence mandates that the prosecution must establish the guilt of the accused persons beyond a reasonable doubt.

16. To substantiate its case, the prosecution relies on the testimony of PW.1 to PW.9. PW.1 is the complainant witness. P.W.2 is the doctor, PW.3 is the eye witness, PW.4 is the mahazar witness, PW.5 is the retired PSI police official, PW.6 and 7 are the eye-witnesses, PW.8 is the mahazar witness, PW.9 is the eye-witness.

17. To fortify the oral testimonies presented, the prosecution has submitted 8 documents as evidence, namely **Ex.P.1**, constitutes the information provided by CW1 i.e., complaint. Additionally, **Ex.P.2** serving as the mahazar, and **Ex.P-2 (a)to(c)** containing signatures pertinent to the mahazar, **Ex.P.3 and 4** are the wound wound certificates, **Ex.P.5** is the FIR, Ex.P6 is the list of

articles, Ex.P7 is the statement of PW.6, Ex.P8 is the statement of PW.7, Ex.D1 is the certified copy of chargesheet in CC.No.720/2017, Ex.D2 is the certified copy of complaint, Ex.D3 is the certified copy of wound certificate.

18. PW1 in his chief-examination has reiterated the complaint averments, however he has introduced certain improvements regarding the lodging of complaint, thereby creating material contradictions in his own version. In the cross-examination, he has partly turned hostile and has admitted that the accused persons had already filed a civil suit against them, which was pending even prior to lodging of this complaint, indicating pre-existing civil dispute.

19. It is further crucial that PW1 admits he does not know to which survey number the accused persons had brought the surveyor, which is the very root cause of the alleged incident. He has also admitted that he along with CW2 had assaulted the accused persons during the survey, thereby showing rivalry and motive for filing the present complaint.

20. Most importantly, PW1 admits that after conducting the survey, the accused persons had left the place and were not present at the spot, which creates serious doubt as to how the alleged incident of assault could have taken place. He further admits that the complaint was lodged only after the accused persons had filed their complaint, strengthening the defence of false implication.

21. PW1 has also admitted that he does not know the contents of the complaint, that the mahazar was prepared in the police station, and that M.O.1 wooden club was produced at the station, which clearly indicates an afterthought and renders the recovery doubtful.

22. Hence, on a careful testimony of PW1's evidence, it clearly discloses that the dispute is civil in nature and the criminal case appears to have been initiated as a counterblast, and in the absence of credible evidence, the offences under Sections 323 and 324 IPC are not attracted.

23. PW2, being the doctor, has stated in his chief-examination that all the four injuries noted are abrasions, whereas as per the

complaint, it is noted and evident that the assault was allegedly made by a wooden club, in which case the probable injury would be contusion and not abrasion, thereby creating doubt about the prosecution version.

24. Further, regarding CW2, the injury noted is only tenderness, which is merely a symptom and not a definite injury, hence Ex.P3 and Ex.P4 wound certificates do not inspire confidence and appear improbable.

25. In the cross-examination, PW2 has admitted that such injuries are possible if a person falls on a hard surface, thereby weakening the case of assault. Moreover, when the presence of accused persons at the spot itself is doubtful, the alleged injuries and symptoms become highly improbable and lack corroboration. Added to this, all independent eyewitnesses and mahazar witnesses have turned hostile, making the prosecution evidence inconclusive in nature.

26. PW3, being an injured and eyewitness, in his chief-examination reiterated the complaint version, however in the cross-examination he admitted that there exists a civil dispute

between the parties, showing prior enmity and possibility of false implication. He further admitted that after the accused persons lodged their complaint, they filed the present complaint, which strengthens the defence case of counterblast.

27. Being an interested witness, his evidence requires corroboration from independent witnesses, but the mahazar and other eyewitnesses have turned hostile, thereby lacking such support. Moreover, in his chief itself, PW3 has stated that Accused Nos.2 and 3 assaulted simultaneously, which appears improbable as the same act cannot be attributed in that manner by multiple person at the single instance wherein this version creates serious doubt. Hence, these inconsistencies and lack of corroboration of PW3 is unreliable to prove prosecution version.

28. PW4, being the seizure mahazar witness, in his chief-examination supported the prosecution regarding recovery, however in cross-examination he has admitted that no notice was issued to him, he does not know the contents of the mahazar, and even unaware where exactly he signed, which weakens the credibility of the mahazar. He has further admitted that no photographs were taken and being a panch

witness, his lack of knowledge creates serious doubt about the genuineness of the seizure. Moreover, in view of PW1's admission that M.O. was produced in the police station, it clearly indicates an afterthought, and hence the seizure mahazar cannot be said to be duly proved.

29. PW5, being the PSI, has deposed in his chief-examination that he registered the FIR, received the complaint, conducted mahazar, recovered M.O., obtained wound certificates, and recorded statements. However, in the cross-examination, he has admitted that no MLC was registered and that the accused had first lodged a complaint, indicating a counter case.

30. He has further admitted that the mahazar was not properly signed, he did not conduct spot investigation, and he is not aware of the exact house or location, which creates serious doubt about proper investigation.

31. He has also not enquired into the civil dispute between the parties, which appears to be the root cause of the incident. Further, the recovery of M.O. at the police station remains unexplained, and he has not given a satisfactory answer

regarding the same. These irregularities in the investigation render his version unreliable and make the prosecution case improbable to accept.

32. PW6 and PW7, being cited as eyewitnesses, have not supported the prosecution case and have turned hostile, thereby failing to speak about the alleged incident. Their non-support creates serious doubt regarding the occurrence of the incident as alleged.

33. Similarly, PW8, being the mahazar witness, has also turned hostile and has not supported the seizure or recovery proceedings.

34. In criminal jurisprudence, when independent eyewitnesses do not support the case, the oral testimony of the prosecution becomes doubtful. The absence of corroboration from these witnesses weakens the prosecution version considerably. Hence, both the alleged incident and the seizure mahazar remain unproved and cannot be relied upon.

35. PW9, who is the material witness for the allegation under Section 354 IPC, has in her chief-examination not supported the prosecution and has turned hostile, thereby not substantiating the said allegation.

36. In the cross-examination, she has admitted that she does not know about the complaint or the exact occurrence of the incident, which further weakens the prosecution case. She has also not produced any document relating to the survey number, and has admitted the existence of civil dispute between the parties. When the very victim of the alleged offence does not support the case, the allegation under Section 354 IPC cannot be sustained. Hence, in the absence of credible and consistent evidence, the charge under Section 354 IPC remains not proved.

37. Importantly, none of the prosecution witnesses have consistently spoken about the ingredients of offences under Sections 504 and 506 IPC, and hence the same are not established. The evidence of PW1 and PW3, though complainant and injured witnesses, suffers from material inconsistencies and contradictions, making their testimony unreliable.

38. Finally concluding all testimonies, all independent eyewitnesses and mahazar witnesses have turned hostile, and the recovery of M.O. is not duly proved, thereby weakening the prosecution case. The medical evidence also does not satisfactorily corroborate the alleged assault and appears improbable in the given circumstances. The investigation itself suffers from serious irregularities, creating doubt about the genuineness of the case. Considering all these aspects, the prosecution has failed to prove the charges beyond reasonable doubt. Hence, the accused persons are entitled to benefit of doubt and are acquitted of the said offences. Accordingly, Points No. 1 to 5 are held in the negative.

39. **Point No. 6 :** Considering the failure of the prosecution to prove the guilt of the accused persons beyond a reasonable doubt and the hostile nature of the key witness, there is no reasonable prospect of conviction.

ORDER

Acting Under Sec.248(1) of Cr.PC., the accused No.1 to 3 are acquitted of the offences punishable under Sections 323, 324, 354, 504 and 506 read with Section 34 of IPC.

The bail and surety bonds of the accused persons stand canceled.

MO.1 and 2 club being worthless be destroyed after appeal period is over.

(Dictated to the Stenographer computerized by him, taken print out and revised and corrected by me then pronounced in the open court, this 21st day of April 2026)

(KAVYASHREE H.S)

I Addl.Civil Judge & JMFC.,
Malavalli.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR PROSECUTION:

PW.1- Madaiah
PW.2- Dr.Sumalatha
PW.3- Madaiah
PW.4- Mahadeva
PW.5- S.Nagesh
PW.6- Rangaiah
PW.7- Ananda
PW.8- Singarigowda
PW.9- Ningamma

LIST OF DOCUMENTS EXHIBITED FOR PROSECUTION :

Ex.P.1- Complaint
Ex.P.1(a)- Signature
Ex.P.2- Mahazar
Ex.P.2(a)to(c)- Signatures

Ex.P.3,4- Wound certificates

Ex.P.3(a),4(a)- Signatures

Ex.P.5- FIR

Ex.P.5(a)- Signature

Ex.P.6- List of articles

Ex.P.6(a)(b)- Signatures

Ex.P.7,8- Statements

Ex.D.1- Certified copy of charge sheet

Ex.D.2- Certified copy of complaint

Ex.D.3- Certified copy of wound certificate

FOR DEFENCE: - Nil -

LIST OF MATERIAL OBJECTS MARKED:-

MO.1 : Club

MO.2 : Stone

(**KAVYASHREE H.S**)
I Addl.Civil Judge & JMFC.,
Malavalli.