

KAMS010068782022



**IN THE COURT OF THE III ADDL. DISTRICT AND
SESSIONS JUDGE, MYSURU**

:PRESENT:

Sri **Gururaj Somakkalavar**, M.A.,LL.B.,
III Addl.District & Sessions Judge, Mysuru

SC/339/2022

Dated this the 15th day of April, 2026

Complainant: State by : Udayagiri P.S.
[By Public Prosecutor]

V/s

Accused: 1) Keerthi S/o Nataraju, aged
about 22 years, r/a # 125, Near
Mallikarjuna School, Udayagiri,
Mysuru.
2) Raju @ Byalk Berri s/o late
Shankar, aged about 20 years, R/
a # 414, 7th Cross,
Muneshwaranagara, Udayagiri,
Mysuru.

3) Karthi @ Moksh @ Mokshanandan s/o Rajshekar Murthy, aged about 21 years, R/a # 475, Chamundi Block, Muneshwara Nagara, Udayagiri, Mysuru.

4) Manojkumar @ Manu @ Karthik s/o Anand, aged about 20 years, R/a # 127, 7th Cross, Vinayaka Road, K.N.Pura, Mysuru.

5) Sagar S/o Dinesh, aged about 23 years, R/a Behind Madeena Masjid, Muneshwaranagara, Udayagiri, Mysuru.

[By Sri.M.S, Advocate)

Date of occurrence of offence	:	07.11.2018
Date of report of offence	:	08.11.2018
Evidence commenced on	:	17.10.2025
Evidence closed on	:	23.03.2026
Name of the complainant	:	Sri.Vinay @ Vinnipal
Offences punishable	:	U/s 341, 143, 144, 147, 307, 504, 506 R/w Sec.149 IPC
Judgment	:	As per final order.

JUDGMENT

The Police Inspector, Udayagiri Police Station, has submitted the charge-sheet against the accused persons for the offences punishable U/s 341, 143, 144, 147, 307, 504, 506 R/w Sec.149 IPC.

2. The case of the prosecution is that, on 7.11.2018 at about 9.10 p.m., CW-1/injured was with his friend CW-2 on the road in front of K.R.Palace at Sathyanagar. At that time, accused No.1 to 6 forming a gang came to the spot. Accused No.1 started to abuse CW-1 stating that CW-1 used to stare at him whenever they counter each other. He started quarrel. At that time, accused No.1 in order to kill CW-1 assaulted on the head of the CW-1 with long in his hand. At the same time, accused No.2 with cricket wicket assaulted on the legs of CW-1, accused No.3 assaulted on his body with the wicket and accused No.4 to 6 have kicked CW-1, assaulted him with hands. They threatened him with dire consequences. They assaulted CW-1 to kill him and they have caused grievous injury to CW-1. With these allegations, the prosecution has launched against accused for the offences punishable U/s 341, 143, 144, 147, 307,

504, 506 R/w Sec.149 IPC. During the course of investigation, the I.O arrested accused and after completion of investigation, IO filed the charge sheet against accused.

3. The Committal Court, after taking cognizance of the charge-sheet registered CC.No.2137/2020 and committed the case for trial U/s 209 of Code of Criminal Procedure, after having complied with the provisions of Sec.207 and 208 of Code of Criminal Procedure. In pursuant to the committal order, on committal of the case, present case has been registered and assigned to this Court for disposal in accordance with law. At the time of committal, accused are on Court bail. They represented through their advocate. This Court after hearing the accused and counsel on both side, perused and found sufficient materials for presuming the commission of offences by the accused and hence framed the charge against the accused for the offences punishable U/s 341, 143, 144, 147, 307, 504, 506 R/w Sec.149 IPC. Contents of the charge were read over and explained to the accused. The accused were pleaded not guilty and claims to be tried.

4. While submitting the Charge Sheet, the IO has cited 21 witnesses, but prosecution examined only 07 witnesses as PW.1 to 07 and got marked 18 documents exhibited as Ex.P.1 to P.18 and MO.1 to 7. After completion of prosecution side evidence, accused examined U/s 313 of Cr.P.C in order to explain the incriminating evidence appeared against them and their answers are recorded in their own words. The accused denied the entire incriminating evidence as false, not aware and also that they have been falsely implicated in this case.

5. Heard the arguments of the learned P.P and the counsel for the accused. Perused the oral and documentary evidence available on records.

6. In the light of above materials and allegations of prosecution, following points are arises for my consideration:-

(1) Whether the Prosecution has proved the case beyond all reasonable doubt for the offences punishable U/Sec.341, 143, 144, 147, 307, 504, 506 R/w Sec.149 IPC?

(2) What Order?

7. This court upon appreciation of available materials, with reference to prevailing legal aspects, give findings to the above points as follows:-

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

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

REASONS

Point No 1:

8. It is the case of the prosecution that, on 7.11.2018 at about 9.10 p.m., CW-1/injured was with his friend CW-2 on the road in front of K.R.Palace at Sathyanagar. At that time, accused No.1 to 6 forming a gang came to the spot. Accused No.1 started to abuse CW-1 stating that CW-1 used to stare at him whenever they counter each other. He started quarrel. At that time, accused No.1 in order to kill CW-1 assaulted on the head of the CW-1 with long in his hand. At the same time, accused No.2 with cricket wicket assaulted on the legs of CW-1, accused No.3 assaulted on his body with the wicket and accused No.4 to 6 have kicked CW-1,

assaulted him with hands. They threatened him with dire consequences. They assaulted CW-1 to kill him and they have caused grievous injury to CW-1. With these allegations charge sheet is laid against the accused persons for the offences punishable U/s 341, 143, 144, 147, 307, 504, 506 R/w Sec.149 IPC.

9. The prosecution in order to prove its case has examined PW-1 to 7 out of 21 witnesses cited in the charge sheet. If the witnesses are classified PW-1 is the injured, PW-2 is the eye witness, PW-3 is the doctor who treated injured PW-1, PW-4 is the police official who arrested accused, PW-5 is the mahazar witness and PW-6 and 7 are the Investigating Officers.

10. It is the specific case of the prosecution that these accused No.1 to 5 formed gang and with intention to eliminate CW-1/injured quarreled with him and assaulted him, causing grievous injury. By that, these accused have committed offence punishable U/s.341, 143, 144, 147, 307, 504, 506 R/w sec.149 of IPC.

11. The prosecution has mainly rely upon the evidence of PW-1 and 2. PW-1 is the injured and PW-2 is

the eyewitness. PW-1 who is the injured has deposed that CW-2 is his friend, he do not know any person by name Harsha. He do not know accused and he never seen them. He deposed that on the fateful day, he was having tea in the tea stall on the main road of Udayagiri. At that time, 7 to 8 unknown persons came and started quarrel with him and assaulted him. He do not know their identity and they are not known to him. He do not know for what reason they have quarreled with him. But, they suddenly assaulted him with cricket bat and wicket on his head and knees. He lost his conscious. When he recollected his conscious, he was in the hospital and taking treatment. He has not lodged any complaint. However, the police came to the hospital and collected information about the incident. Police got his signature on the document. The police also collected the bloodstained clothes. However, he has not identified any of the machete or wickets during the evidence. The prosecution treat him hostile and cross-examined him. He was put up with the version of the prosecution case in the form of suggestion. PW-1 has completely denied all those suggestions.

12. Further, the prosecution has examined PW-2. He deposed that when he and PW-1 were having tea at the tea stall in Udayagiri. There, 20 to 30 persons were fighting. He do not know who are they, but there was fight in the gang. He do not know how the PW-1 sustained injury. But, there are injuries on his hands and head. He took injured to K.R.Hospital. Police visited the hospital and they have collected signature with regard to the incident. There was a fight in the group, he has not seen the accused. He do not know with which weapon who has assaulted injured. He deposed that, he has signed the spot mahazar in the hospital and he has not shown any place of incident to the police. The prosecution treat him hostile and cross-examined him. Where the entire version of the prosecution was put to him in the form of suggestion, which was denied by PW-2.

13. On appreciating the evidence of PW-1 and 2, though it is deposed by them that PW-1/injured sustained injury, but they do not know who has assaulted PW-1 with which weapon. Both the witnesses have not supported the case of the prosecution. As such, the prosecution treat them hostile and cross-examined them, but nothing much is elicited. As per the PW-2 there was a gang fight,

in that, some unknown persons have assaulted PW-1 and PW-1 sustained injury on his head and body. He do not know who are the person who assaulted PW-1. The eyewitness has not supported the case of the prosecution.

14. The prosecution has examined PW-3 Doctor, who has treated PW-1. She deposed that on 7.11.2018 at about 9.00 pm, CW-1 was brought by his friend Suresh with the history of assault. On examination there was lacerated wound on the back of the head. He was referred to department of surgery, where CT Scan was done. It is found that there is a fracture on the occipital region. She opined that those injuries are grievous in nature. She has issued wound certificate at Ex.P.5 and also sent MLC.

She was subjected to cross-examination by the counsel for the defence, where she admitted that she has not examined the weapon. She was questioned when the PW-1 was brought to hospital for treatment whether he has given information about who has assaulted with which weapon. To which, PW-3 deposed that, she got the information that one Keerthi has assaulted him with long. However, she admitted that, the same is not

mentioned in the wound certificate. It is suggested that, when a person was pushed and if he falls on the backside, he will sustain the said injuries mentioned in the wound certificate. To which PW-3 deposed that it is rarely possible.

15. It is necessary to note here that, the PW-3 has examined PW-1 when he was brought to hospital. Where, she has found that PW-1 has sustained injury on his head and those injuries are grievous in nature. However, during the cross-examination she deposed that PW-1 informed her that accused No.1 assaulted him with long. But, this fact is not deposed by PW-1 in his evidence. He has deposed that he do not know who has assaulted him with which weapon. However, there was a quarrel and in that quarrel some unknown persons assaulted him and he sustained injury. The testimony of PW-1 do not support the testimony of PW-3, to substantiate that the accused No.1 has assaulted CW-1/PW-1 with long.

16. Further, the prosecution has examined PW-5 who is the seizure mahazar witness to the seizures of those long and cricket wickets. But, this witness has not supported the prosecution. In his testimony, he has

deposed about 6 years back he went to Udayagiri police station with regard to his domestic dispute. At that time, the police have collected signature on the documents. He do not know anything about the case. He has not seen accused and they are not known to him. The prosecution treat him hostile and cross-examined him. But, nothing much is elicited. The recovery on the disclosure by the accused has not been supported by PW-5.

17. The prosecution examined PW-4,6 and 7 who are the police officials. Mainly PW-6 testified that on receiving the information from the hospital, he visited the hospital and recorded the statement of the injured and returned back to the police station and registered Cr.No.352/2018. He was subjected to cross-examination by the counsel for the defence, wherein it is questioned that the injured has not disclosed names of any accused. To which, PW-6 deposed that he has stated the only name of accused No.1 Keerthi. He has denied the suggestion that the names of the accused were implicated.

18. Apart from that, PW-4 has deposed with regard to the arrest of accused No.1,2 and 3. PW-7 has deposed about the investigation conducted in the present

case. He has subjected to cross-examination, however nothing much is elicited from his testimony.

19. On appreciating the evidence on record, the prosecution case is not supported with the testimony of the witnesses. PW-1 who is the injured in the case himself has not supported the prosecution. Though, he has admitted with regard to the quarrel and sustaining of the injuries. But he has not identified the accused and even the weapon with which he was assaulted. He specifically deposed that he has not seen accused and he do not know who has assaulted him. As such, the testimony of PW-1 will not help the prosecution. Apart from that, PW-2 who said to be the eyewitness has also not supported the case of the prosecution. He also not identified any of the accused. Though he has deposed that there was a fight in the group, in which PW-1 sustained injury. But he has also not stated anything incriminating against the present accused. Now, only on the testimony of PW-3 who is the doctor, it cannot be held that these accused have committed the alleged offence. Moreover, as per PW-3, it is only the accused No.1 whose name is crept in the case. Even, as per the testimony of PW-6, wherein during the cross-examination he has

admitted that, the injured has only stated the name of accused No.1 in his statement. That means the other accused are not identified and there is no material that these accused were assaulted injured. The prosecution though examined witnesses, but nothing incriminating is brought against these accused to hold them guilty.

20. It is brought on record by the prosecution that the PW-1 sustained grievous injury by examining PW-3 and placing wound certificate at Ex.P.5. But, it is not been substantially proved that these accused have assaulted PW-1 and caused grievous injury. However, it is substantiated from the evidence of PW-1 and 2, there was a fight. But, it is not clearly demonstrated that these accused have assaulted PW-1 in the fight and caused grievous injury. There is nothing incriminating evidence against these accused to hold them guilty. The commission of offence has to be proved with cogent and satisfactory evidence and it has to be proved with greater degree. It is to be proved that these accused 'must have' committed the offence and not 'may have' committed the offence. In this regard, it is worth to rely upon the observation of **Mallappa Vs State of Karnataka in**

Crl.Appeal No.1162/2011 dated 12.2.2024, which reads thus:

" 35. So far as the question of independent appreciation of evidence by the High Court is concerned, be it noted that the High Court was fully empowered to do so, but in doing so, it ought to have appreciated the evidence in a thorough manner. In the present case, the High Court has not done so. Even the aspects discussed by the Trial Court have not been fully addressed and the High Court merely relied on a limited set of facts to arrive at a finding. The factors which raised reasonable doubts in the case of the prosecution were ignored by the High Court. For instance, the contradictions pertaining to time, which were carefully analyzed by the Trial Court, were not examined by the High Court at all. Similarly, the contradictions qua the nature of injuries were also not discussed. In an appeal, as much as in a trial, appreciation of evidence essentially requires a holistic view and not a myopic view. Appreciation of evidence requires sifting and weighing of material facts against each other and a conclusion of guilt could be arrived at only when the entire set of facts, lined together, points towards the only conclusion of guilt. Appreciation of partial

evidence is no appreciation at all, and is bound to lead to absurd results. A word of caution in this regard was sounded by this Court in *Sanwat Singh v. State of Rajasthan*, wherein it was observed thus:

"9. The foregoing discussion yields the following results : (1) an appellate court has full power to review the evidence upon which the order of acquittal is founded; (2) the principles laid down in *Sheo Swarup* case [LR 61 IA 398] afford a correct guide for the appellate court's approach to a case in disposing of such an appeal; and (3) the different phraseology used in the judgments of this Court, such as, (i) "substantial and compelling reasons", (ii) "good and sufficiently cogent reasons", and (iii) "strong reasons", are not intended to curtail the undoubted power of an appellate court in an appeal against acquittal to review the entire evidence and to come to its own conclusion; but in doing so it should not only consider every matter on record having a bearing on the questions of fact and the reasons given by the court below in support of its order of acquittal in its arriving at a conclusion on those facts, but should also express those reasons in its judgment, which lead it to hold that the acquittal was not justified."

(emphasis supplied)

36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:

(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive – inclusive of all evidence, oral or documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court.

37. In this case, the appellants, as a separate argument, have also submitted that the case is not based on circumstantial evidence and is based on direct evidence of PW-3 and PW-4, and therefore, the principles of circumstantial evidence shall not apply. The submission is erroneous for various reasons. First, the direct evidence of PW-3 and PW-4 is to be tested on its own strength, especially in light of their subsequent conduct after the incident. As per their version, they were accessories to the fact, however, their subsequent conduct left much to be desired and therefore, their direct testimony was found to be incredible, as already discussed above. Secondly, in the absence of credible direct evidence, the case essentially falls back on the circumstantial evidence, and

thirdly, the prosecution has failed to complete the chain of circumstances. The contradictions between oral testimonies and medical examination reports, failure to seize essential materials from the scene of crime, failure to explain the mode of conveyance while going from one place to another, failure to prove the presence of PW-3 at the place of incident, failure to corroborate the injuries etc. are some of the deficiencies in the chain of circumstances. It would be apposite to refer to the decision of this Court in *Sharad Birdhichand Sarda v. State of Maharashtra* 10 , wherein the "Panchsheel" or five principles of circumstantial evidence were laid down as follows:

"153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in *Shivaji*

Sahabrao Bobade v. State of Maharashtra [(1973) 2 SCC 793] where the observations were made:

"Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions".

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

38. The circumstances in this case are far from conclusive and a conclusion of guilt

could not be drawn from them. To sustain a conviction, the Court must form the view that the accused "must have" committed the offence, and not "may have". As noted in *Sharad Birdichand Sarda*, the distinction between "may have" and "must have" is a legal distinction and not merely a grammatical one".

21. As per the observation of Hon'ble Apex Court it has laid down the principles for appreciation of evidence. It has observed that, appreciation of evidence requires sifting and weighing of material facts against each other and a conclusion of guilt could be arrived at only when the entire set of facts lined together point towards the only conclusion of guilt. The Hon'ble Apex Court relying upon the *Sharad Birdichand Sarda Vs State of Maharashtra*, has laid down certain principles and observed that, to sustain a conviction the court must form a view that the accused must have committed offence and may not have. The distinction between 'may have and must have' is a legal distinction and not merely grammatical one. The Hon'ble Apex has laid down that, to convict the accused there must be proof that accused 'must have' committed the offence and the presumption cannot be

considered that 'may have' the accused committed the offence.

22. If the observation of Hon'ble Apex Court is carefully appreciated the evidence has to disclose that the accused must have committed the offence. Here in this case, there is no conclusive evidence and the evidence placed on record does not create confidence that accused have committed the offence. Hence the prosecution is not successful in bringing the guilt of the accused. There is a doubt in the case of the prosecution, hence the benefit of doubt has to be extended to the accused and accused are entitled to be acquitted for the alleged offence. Hence, accused has acquired for the offence. Accordingly, point No.1 held in **Negative**.

Point No.2:

23. In the result, I proceed to pass the following:

ORDER

In exercise of power vested with this Court U/Sec.235(1) of Cr.P.C., the accused No.1 to 5 are hereby **Acquitted** for the offences punishable U/Sec.341,504,506, 307, 143, 144,147 R/w Sec.149 of IPC.

MO-1 to 4 and MO-6 and 7 being worthless shall be destroyed and MO-5 shall be confiscated to the State after appeal period is over.

Surety furnished U/Sec.437-A is in force for 6 months or till appeal period is over.

(Dictated to the Stenographer, transcript, corrected and then pronounced in the open Court on this the **15th day of April, 2026**)

(Gururaj Somakkalavar)
III Addl. District & Sessions Judge,
Mysuru.

ANNEXURE:

Witnesses examined for the Prosecution:

PW-1	Vinay @ Vinipal
PW-2	Pavankumar
PW-3	Dr.Lavanya.L
PW-4	Siddiq Ahamed
PW-5	Musthaq Khan
PW-6	K.S.Narayan
PW-7	P.P.Santhosh

Documents marked for the Prosecution:

Ex.P-1	Complaint
P-1(a)	Signature of PW-1
Ex.P-2	Further statement of PW-1
Ex.P-3	Crime details form
P-3(a)	Signature of PW-2
P-3(b)	Signature of PW-7
Ex.P-4	Statement of PW-2
Ex.P-5	Wound certificate
P-5(a)	Signature of PW-3
P-5(b)	Signature of PW-7
Ex.P-6	MLC Memo
P-6(a)	Signature of PW-3
Ex.P-7	FSL report
P-7(a)	Signature of PW-7
Ex.P-8	Property seizure memo
P-8(a)	Signature of PW-5
P-8(b)	Signature of PW-7
Ex.P-9	Property seizure memo
P-9(a)	Signature of PW-5
P-9(b)	Signature of PW-7
Ex.P-10	Report
P-10(a)	Signature of PW-7
Ex.P-11	Voluntary statement of A-1
Ex.P-12	Voluntary statement of A-2

Ex.P-13	Voluntary statement of A-3
Ex.P-14	Report
P-14(a)	Signature of PW-7
Ex.P-15	Lab report
P-15(a)	Signature of PW-7
Ex.P-16	Attested MLC report
Ex.P-17	Photos
Ex.P-18	FIR (by consent)

Witnesses examined for the defence: Nil

Documents marked for the defence: Nil

M.Os. Marked for the Prosecution:

MO-1	Shirt
MO-2	Pant
MO-3-4	Cricket Wicket
MO-5	Long
MO-6	Bloodstained Tar
MO-7	Sample Tar

(Gururaj Somakkalavar)
III Addl. District & Sessions Judge,
Mysuru.