



**PRESENT: SUSHMA.M. B.A. LL.B.,**  
**C/c II ADDL.CIVIL JUDGE & JMFC,**  
**HEGGADADEVANAKOTE.**

**C.C NO.263/2018**

**V/s.**

**ACCUSED PERSONS:**

1. Sri.Nagesh.H.C,  
S/o Late.Chikkanegowda,  
Aged about 40 years,
2. Sri.Shambulingegowda,  
S/o Late.Chikkanegowda,  
Aged about 45 years,
3. Sri.Swamygowda @ Swamy.H.C,  
S/o Late.Chikkanegowda,  
Aged about 35 years,
4. Sri.Kumara @ SanjayKumar.H.S,  
S/o Shambhulingegowda,  
Aged about 21 years,

- 5.** Sri.Nagarajegowda,  
S/o Late.Puttaswamygowda,  
Aged about 50 years,
- 6.** Smt.Savitha,  
D/o Nagarajegowda,  
Aged about 35 years,  
All are R/o Hirehally B colony village,  
H.D.Kote Taluk,  
Mysore District.

**(Rep. By Sri.K.C.S., Advocate)**

|                                                  |                                              |
|--------------------------------------------------|----------------------------------------------|
| Date of Commission of offence                    | 20.03.2017                                   |
| Date of report of offence                        | 20.03.2017                                   |
| Name of the complainant                          | Sri.M.Basavaraju                             |
| Date of commencement of<br>Recording of evidence | 28.11.2024                                   |
| Date of closing of evidence                      | 02.12.2025                                   |
| Offences complained of                           | U/sec.341, 323, 324,<br>506 R/w 34 of I.P.C. |
| Opinion of Magistrate                            | Accused No.1 to 6 are<br>acquitted.          |
| Date of Judgment                                 | 10.08.2026                                   |

**(SUSHMA M)**  
**C/c II ADDL.CIVIL JUDGE & J.M.F.C,**  
**HEGGADADEVANAKOTE.**

### **JUDGMENT**

The Police Sub-Inspector of H.D.Kote Police Station has filed the charge sheet against the accused No.1 to 6, for the alleged offences U/Sec.341, 323, 324, 506 R/w 34 of IPC.

**2. The case of the prosecution, in brief is that:**

On 20.03.2017 at about 11.45 a.m, within the jurisdiction of H.D.Kote Police Station, accused No.1 to 4 were cutting trees in Sy.No.37/A, Hirevalli B Colony Village, standing in the name of Late.Kodigowda. At that time, CW-1 questioned accused No.1 as to why they were cutting the trees. It is stated that, accused No.1 informed CW-1 that, they had paid consideration to accused No.5 and had purchased the trees and they were cutting them. When CW-1 stated that, the said trees also belonged to him and the land was under dispute, it is alleged that accused No.1 to 4, in furtherance of their common intention, accused No.1 caught hold and pushed CW.1 to the ground and accused No.1 to 4 kicked and beat him with their hands. The accused assaulted CW.1 on his left hand with machete. At that time, when CW-2 and CW-3 come at the spot, accused No.5 assaulted CW-3 on the right hand with machete. Thereafter, it is alleged that accused No.5 assaulted Adarsh on his left shoulder with club. It is further alleged that, when CW-1 intervened, accused No.5 assaulted him on the head with machete. It is also alleged that, accused No.6 assaulted CW-2 with his hands. It is further stated that, accused No.1 and 5 criminally intimidated CW-1 and others by threatening that, if they again came in connection with the trees, they would not spare them without committing their murder.

3. The accused No.1 to 6 appeared before the Court through their counsel and enlarged on bail. After furnishing the charge-sheet copy, in response to the charge leveled against them, they have not pleaded guilty and claimed to be tried. The prosecution has examined nine witnesses as PW.1 to 11 and got marked as Ex.P1 to Ex.P13 documents and also got marked MO.No.1 to 3. The material witnesses have been cross-examined by the prosecution. The statement of accused persons under Sec.313 of Cr.P.C was recorded, as there were incriminating circumstances found against the accused persons from the evidence of the prosecution.

4. Heard the Arguments and perused the materials on record.

5. The points that arise for my consideration are :

1. **Whether the prosecution proves beyond all reasonable doubt that, on 20.03.2017 at about 11.45 a.m at Hirehally village, the accused No.1 to 6 in furtherance of common intention, accused No.1 caught hold CW.1 and wrongfully restrained his and thereby committed the offence punishable under section 341 R/w 34 of IPC ?**
2. **Whether the prosecution proves beyond all reasonable doubt that, on the aforesaid date, time and place, the accused No.1 to 6 in furtherance of common intention, accused No.1 caught**

**hold and pushed CW.1 to the ground and accused No.1 to 4 kicked and beat him with their hands and accused No.6 assaulted CW-2 with his hands and voluntarily caused simple hurt to the CW.1 and thereby committed the offence punishable U/Sec.323 R/W 34 of IPC ?**

**3. Whether the prosecution proves beyond all reasonable doubts that, on the aforesaid date, time and place, the accused No.1 to 6 in furtherance of common intention, the accused No.1 assaulted CW.1 on his left hand with machete, accused No.5 assaulted CW-3 on the right hand with machete, accused No.5 assaulted Adarsh on his left shoulder with club and accused No.5 assaulted him on the head with machete and voluntarily caused simple injuries to CW.1 and thereby committed an offence punishable U/Sec.324 R/w 34 of IPC ?**

**4. Whether the prosecution proves beyond all reasonable doubt that, on the above said date time and place, accused No.1 to 6 in furtherance of common intention, threatened to the life of CW.1 and caused criminal intimidation and thereby committed an offence punishable under section 506 R/w 34 of IPC ?**

**5. What Order ?**

**6. My finding to the above points are as follows:**

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

**Point No.2 : In the Negative.**  
**Point No.3 : In the Negative.**  
**Point No.4 : In the Negative.**  
**Point No.5 : As per final order  
for the following:**

**:: REASONS ::**

**7. POINT NO.1 TO 4:** Since these points are interlinked with each other, they are taken up together for discussion to avoid repetition of facts. To prove the case, prosecution has examined 11 witnesses as PW.1 to PW.11. PW.1 is said to be the complainant. PW.2 and 3 are the victims, PW.4 and 5 are the mahazar witnesses, PW.6 to 8 are the eye witnesses, PW.9 is the doctor and PW.10 and 11 are the official witnesses.

**8. PW.1/complainant M.Basavaraju** has deposed that, on 20.03.2017, after about 11.00 a.m planting banana saplings in their land. Thereafter, while he was returning home for breakfast, he noticed accused No.1 to 4, 6 and 7 cutting trees in the disputed land belonging to their grandfather. He further stated that, he questioned accused No.1 as to why they were cutting the trees despite being aware of the pending dispute. Further accused No.1 abused him in filthy language, claimed that he had already paid money to Nagarajegowda and pushed him by placing a tree-cutting machine near his neck. On reaching home, he informed his

son about the same. Thereafter, his son went to question the accused as to why they were cutting trees from his grandfather's land, and he and his wife also went to the spot. Accused No.1 and his family members obstructed them. At that time, accused No.5 assaulted his wife with the blunt side of the machete on her shoulder and hand, causing a fracture to her hand, due to which she fell to the ground. He further stated that, accused No.5 also assaulted him on the head with club. Accused Nos.2 to 4 threatened to kill him. He further stated that, accused No.5 again assaulted his wife on her left shoulder with the club. Due to the assault, he sustained a bleeding injury on his head. He further stated that during the incident, both he and his wife sustained injuries, while his son suffered minor injuries. Then CW.8 and Nagaraju were pacify the quarrel. Thereafter, he, his wife and his son went to the Government Hospital for treatment. The police came and asked him to sign a blank sheet of paper. He stated that when he refused to sign the blank paper, a police officer by name Mahadevappa informed him that it was his responsibility to register the case. Believing the said assurance, he signed the blank sheet. It is further stated that, from the Government Hospital, he was referred to K.R.Hospital for further treatment, where he received treatment. After his discharge, he produced the medical records issued by K.R.Hospital before the police and informed them that his wife had sustained a fracture to her hand and he had also suffered injuries and requested the

police to register a criminal case. The police registered the case and identify the machete and club.

**9.** During the cross examination PW.1 admitted that, he accused No.5 and are relatives and civil case is pending in respect of the land where the tree was cut. Further admits that, the accused have lodged compliant against him. On perusal of testimony of PW1, it seems that the facts were not stated in the statement have been stated for the first time during the chief examination. Rest of the suggestion is formal in nature.

**10. PW.2/Injured Jayalakshmi** has deposed that, the accused persons were known to her. On 20.03.2017, she and CW-1 had gone to their land for planting banana saplings. While accused No.1 to 4 were cutting trees in the disputed land, CW-1 questioned them and requested that they should not cut the trees as the land. Further accused No.1 caught hold of CW-1, pushed him to the ground and assaulted him with machete. She further stated that, upon coming to know of the incident, she and CW-2 were going to the spot. Accused No.5 assaulted her on her right hand with the blunt side of machete and also assaulted CW-2 on his right shoulder. Thereafter, CW-7 and CW-8 pacify the quarrel and accused also threatened that they would kill them, if they came near the disputed land again. She, CW-1 and CW-2 went to the Government Hospital, H.D.Kote, where they received treatment

and she had given a statement before the police regarding the said incident.

**11.** During cross examination she was suggested that, she has not seen the accused assaulting PW1, she states that she saw it when she was proceeding from a distance of about 50 meters. To suggestion that, she has not seen which of the material objects were used to assault the PW1, she says he was assaulted with MO.1 and 2. There were blood stains on her clothes as well as on the clothes of PW.1, the police have not seized the clothes. She deposed that, PW6 pacified the quarrel, but he completely turned hostile. Further admits PW1 and accused No.5 are brothers and there is a civil dispute between them in respect of said land. Further admits accused have lodged a compliant against them. She has stated she took treatment in the JSS hospital, but said documents relating to the treatment taken in the JSS hospital are not produced before the police.

**12. PW.3/injured Adharsh** has deposed that, on 20.03.2017 at about 11.45 a.m, while his father was returning after planting banana saplings, he heard the sound of a tree-cutting machine. He stated that, the land belonged to his great-grandfather and the said property was dispute land. He further stated that, the accused persons were cutting trees in the said land. When his father questioned them, accused No.1 stated that, they had purchased the property by paying

consideration. Thereafter, accused No.1 caught hold of his father by the waist and threw him to the ground, while accused No.2 to 4 assaulted him by kicking him. He further stated that, accused No.1 assaulted his father on his left hand with machete. CW-7 and CW.8 came to the spot and pacify the quarrel. He and CW-1 reached the place of occurrence. At that time, accused No.6 assaulted him on both his cheeks and other parts of his body. He further stated that, accused No.6 handed over a wooden club and machete to accused No.5 and instigated him to assault them. Accused No.1 assaulted CW-2 on her right hand with the blunt side of machete. Accused No.5 assaulted him on his left shoulder with club. He further stated that, when his father came to rescue him, accused No.5 assaulted his father on the head with the sharp edge of the machete. Accused persons threatened that, they would kill them if they raised any dispute regarding the trees. Then he shifted his father and mother to the Government Hospital, H.D.Kote, they were admitted for treatment. He identify MO.No.1 to 3 and he had given a statement before the police regarding the incident. He identify his signature on the spot mahazar, the said mahazar is marked as Ex.P1 and his signature is marked as Ex.P1(a). CW-4 and CW-5 had also signed Ex.P1.

**13.** During the cross examination of PW.3 has admitted that, accused No.5 is paternal uncle and there is a civil

dispute in respect of said land, he does not know how many persons were present when the incident occurred, he did not see who assaulted CW.3, he came to know about the same after CW.3 and 6 stated it, he did not intervene and pacify the quarrel, he cannot state with which machete the accused assaulted. Rest of the suggestions are denied.

**14. PW.4/Nagegowda Mahazar witness** has deposed that, identifying his signature on Ex.P1, the same is marked as Ex.P1(b). He further stated that, he had affixed the said signature in the year 2017 near the land of Nagaraju. He stated that, he was not aware as to who else had signed Ex.P1 in his presence. He also stated that, in his presence, two machete and club were seized.

**15. PW.5/Shankaregowda Mahazar witness** has deposed that, upon identifying his signature on Ex.P1, the same is marked as Ex.P1(c). He had affixed the said signature about seven to eight years ago at the Hirehalli Bus Stand. No articles or material objects were seized in his presence.

**16. PW.6 to 8** are cited as eye witnesses to the incident, but they have completely turned hostile and deposed that, they have not seen the incident and did not know anything about the alleged quarrel. Further they have not given statement before the police. By considering the evidence of P.W.6 to 8, the prosecution has cross examined them. But

nothing was elicited from their mouth, instead, they have stated what has been stated in their chief examination.

**17. PW.9/Dr.Shubha** is the medical officer who treated CW.1 to 3 deposed that, on 20.03.2017 at about 1.00 p.m, CW.3 came to the hospital with the history of assault. Upon examination she found swelling over the left shoulder and an abrasion with contusion over the right forearm. She referred CW-3 to K.R.Hospital, Mysuru, for further treatment. She further stated that, no fracture was ultimately detected. On the same day, at about 1.15 p.m, CW-1 was brought to the hospital with an alleged history of assault. CW-1 reported that, he had been assaulted by accused No.1 and others with a Lathi and sickle. Upon examination, she found a lacerated wound measuring 2 × 6 cm over the left parietal region of the scalp. On the same day, at about 1.20 p.m, CW-2 was brought to the hospital. Upon examination, CW-2 complained of pain over the left side of the back. The above mentioned injuries sustained by CW.1 to 3 are simple in nature, hence she has issued wound certificates, which are got marked as Ex.P5 to P7 and the signature of this witness as Ex.P5(a) to P7(a). She further deposed that, generally if a person is falling from a bullock cart the injuries of CW.1 to 3 may cause.

**18.** In the cross examination of PW.9 the advocate for accused counsel suggested that, if a person is falling from a bullock cart the injuries of CW.1 to 3 would cause, for the said

suggestion this PW.9 stated that pain cause on the said part only. Further stated that, she has not mentioned age of injury in the wound certificates. Therefore, alleged allegation against accused persons that they have assaulted the PW.1 to 3 on their right hand, head and body with the aid of machete and club is doubtful. It is pertinent to note that, for the first time PW.1 has stated before the PW.9 that, the accused have assaulted him with sickle and lathi, whereas in the chief examination as well as in the statement has stated the accused have assaulted with machete and club. Therefore, PW.1 was sustained injuries has stated by him is doubtful.

**19. PW.10/Mahadeva** is the official witness deposed that, he had working as a Head Constable at H.D.Kote Police Station from 2017 to 2020. On 20.03.2017, while he was in charge of the police station, at about 1.45 p.m, he received the MLC Memo staff of the Government Hospital, H.D.Kote. He visited the hospital and recorded the statement of the injured persons. He further stated that, he returned to the police station and registered a case in Crime No.83/2017. He entrusted the case records to CW-13 for further investigation. He is identifying the FIR, statement and MLC memo are marked as Ex.P8 to Ex.P10 and his signatures are marked as ExP10(a).

**20. PW.11/Ashok** is the official witness deposed that, he had working as the PSI at H.D.Kote Police Station from 2016 to 2019. On 21.03.2017, he received the case file from CW-12 and continued the investigation. On the same day, he visited the spot and spot mahazar. He stated that, CW-2 produced two machetes and one club, which he seized in the presence of the panch witnesses. Thereafter, he entered the seized articles. He recorded the statement of CW-1, CW-2, CW-6 and CW-8. On 27.03.2017, he obtained the school records to accused No.7 from CW-10 and incorporated the same into the case file. On 12.05.2017, he recorded the statement of CW-3 and obtaining the wound certificates of CW-1 to CW-3. After completing investigation, filed charge sheet against the accused persons. He identifying his signature on Ex.P-1, the same is marked as Ex.P1(d). He identified his signatures on Ex.P-5 to P-7, which are marked as Ex.P-5(b) to P-7(b). The requisition submitted for obtaining the attendance particulars of Accused No.7 is marked as Ex.P11 and his signature is marked as Ex.P11(a). The certificate is marked as ExP12 and his signature was marked as ExP12(a). The application submitted by accused No.7 to the school was marked as Ex.P-13 and his signature is marked as ExP13(a). PW.10 and 11 were cross examined by the learned counsel for accused persons and they have denied all the suggestions put forth to them.

**21.** On perusal of evidence of all the witnesses, I have found that, PW.1 is the husband of PW.2 and PW.3 is his son of PW.1 and 2. The PW.1 to 3 have stated that, accused No.5 and PW.1 are brothers and there is civil case pending between them in respect of said land where quarrel was taken place. PW.1 to 3 in their evidence stated that CW.7 and 8 pacified the galata and took them to the Hospital, but the said CW.7 and 8 are completely turned hostile. The eye witnesses and mahazar witnesses cited by the prosecution are completely turned hostile to the prosecution case. In their cross examination both PW.1 to 3 admitted that, there is some civil dispute between themselves and the accused persons. Therefore, the evidence of PW.1 to 3 is not sufficient to prove the guilt of accused persons.

**22.** On perusal of entire evidence of PW.1 to 3, it appears that there is a civil case pending between them the accused have also lodged complaint against them. Therefore, it appears only with the enmity of civil dispute, complaint have been lodged. Therefore, the evidence of PW.1 to 3 are not believable and in support of their evidence other witnesses have not deposed about alleged incident. Therefore, their evidence is not helpful to the case of the prosecution to prove the case of the accused beyond all reasonable doubt.

**23.** PW.6 to 8 are the eye witnesses and PW.4 and 5 are the mahazar witnesses. These witnesses have completely

turned hostile and have not stated anything about incident or seizure of Mo.No.1 to 3. Even in their cross examination nothing worth is elicited to prove the guilt of accused persons. The evidence of doctor is also not helpful as she deposed that, only pain caused to CW.1 to 3 due to the assault. Generally if a person is falling from a bullock cart the injuries of CW.1 to 3 might have been caused. But CW.1 to 3 have stated that, they have sustained blood injuries, but blood stained clothes were not seized. Further, PW.2 stated that, she took treatment in the JSS hospital, the said medical documents are not produced. Therefore, it can be said that, the prosecution has failed to prove the guilty of the accused that, they have committed alleged offences.

**24.** Therefore, on the basis of evidence on the record and on the basis of materials, I am of the opinion that the prosecution has failed to prove the guilt of the accused persons beyond all the reasonable doubt for the offences punishable U/Sec.341, 323, 324, 506 R/w 34 of IPC. There is no sufficient and cogent evidence on the record to prove the guilt of the accused persons. Therefore, I opinion that accused persons are liable to be acquitted for the said offences. The evidence on the record is not in consonance with the case of the prosecution. Therefore, the evidence is not sufficient to say the accused persons have committed the offence alleged, hence I am of the opinion that the prosecution has utterly

failed to prove the guilt of the accused persons for the offence punishable U/Sec.341, 323, 324 and 506 R/w 34 of IPC.

**Therefore, I answer point No.1 to 4 in the Negative.**

**25. POINT NO.5:** As per above discussions, reasons and according to my opinion, I pass the following :

**ORDER**

By exercising the power conferred U/Sec.248(1) of Cr.P.C, I acquit the accused No.1 to 6 for the offences punishable U/Sec.341, 323, 324, 506 R/w 34 of IPC.

The bail bonds of the accused No.1 to 6 and their surety shall stand cancelled.

The material object No.1 and 3- Machete seized under PF No.49/2017 shall be confiscated to state after the appeal period is over.

The material object No.2 - Club seized under PF.No.49/2017 being worthless shall be disposed off after the appeal period is over.

(Dictated to the stenographer directly on computer, typed by her in the computer, corrected and then pronounced by me in the Open Court on this the **10<sup>th</sup> Day of AUGUST 2026** )

**(SUSHMA.M)**  
**C/c II Addl.Civil Judge & JMFC,**  
**Heggadadevanakote.**

**A N N E X U R E****List of witnesses examined on behalf of prosecuitor:**

|       |   |                    |
|-------|---|--------------------|
| P.W.1 | - | Sri.Basavaraju.    |
| PW.2  | - | Smt.Jayalakshmi.   |
| PW.3  | - | Sri.Adharsh.       |
| PW.4  | - | Sri.Nagegowda.     |
| PW.5  | - | Sri.Shankaregowda. |
| PW.6  | - | Sri.Umesh.         |
| PW.7  | - | Sri.Mahadeva.      |
| PW.8  | - | Sri.Prasanna.      |
| PW.9  | - | Dr.Shubha.         |
| PW.10 | - | Sri.Mahadeva.K.    |
| PW.11 | - | Sri.Ashoka.        |

**List of witnesses examined for Accused:**

- NIL -

**List of documents marked on behalf of prosecution:**

|             |   |                          |
|-------------|---|--------------------------|
| Ex.P.1      | : | Spot Mahazar.            |
| Ex.P.1(a)   | : | Signature of PW.3.       |
| Ex.P.1(b)   | : | Signature of PW.4.       |
| Ex.P.1(c)   | : | Signature of PW.5.       |
| Ex.P.1(d)   | : | Signature of PW.11.      |
| Ex.P.2 to 4 | : | Statements of PW.6 to 8. |
| Ex.P.5      | : | Wound certificate.       |
| Ex.P.5(a)   | : | Signature of PW.9.       |
| Ex.P.5(b)   | : | Signature of PW.11.      |
| Ex.P.6      | : | Wound certificate.       |
| Ex.P.6(a)   | : | Signature of PW.9.       |
| Ex.P.6(b)   | : | Signature of PW.11.      |
| Ex.P.7      | : | Wound certificate.       |

|            |   |                     |
|------------|---|---------------------|
| Ex.P.7(a)  | : | Signature of PW.9.  |
| Ex.P.7(b)  | : | Signature of PW.11. |
| Ex.P.8     | : | FIR.                |
| Ex.P.8(a)  | : | Signature of PW.10. |
| Ex.P.9     | : | Complaint.          |
| Ex.P.9(a)  | : | Signature of PW.10. |
| Ex.P.9(b)  | : | Signature of PW.9.  |
| Ex.P.10    | : | MLC memo.           |
| Ex.P.10(a) | : | Signature of PW.10. |
| Ex.P.11    | : | Requisition.        |
| Ex.P.11(a) | : | Signature of PW.11  |
| Ex.P.12    | : | Certified letter.   |
| Ex.P.12(a) | : | Signature of PW.11  |
| Ex.P.13    | : | Request letter.     |
| Ex.P.13(a) | : | Signature of PW.11. |

**List of documents exhibited for the Accused:**

- NIL -

**List of material objects marked on behalf of Prosecution.**

|          |   |         |
|----------|---|---------|
| M.O.No.1 | - | Machete |
| M.O.No.2 | - | Club.   |
| M.O.No.3 | - | Machete |

(SUSHMA.M),  
C/c II Addl.Civil Judge & JMFC,  
Heggadadevanakote.