

KAMD010007802020



IN THE COURT OF IV ADDL. DISTRICT & SESSIONS JUDGE,
AT MANDYA

Dated this day the 7th August, 2021

P R E S E N T

SMT.J.P.ARCHANA, B.Com., LL.B.,
IV Addl. District & Sessions Judge,
Mandya.

S. C. No.13/2020

Complainant : State by;
Keragodu Police Station.
[Rep. by Public Prosecutor]

V/s

Accused : 1. Lokesh.C.P S/o Late
Puttaswamygowda, Aged about 35
years,

2. Shivalingegowda @ Shivalinga S/o
Late Puttaswamygowda, Aged about 48
years,

3. Gowri @ Gowramma W/o
Shivalingegowda, Aged about 38 years,

4. Deepak.C.S @ Deepu S/o
Shivalingegowda, Aged about 20 years,

5. Chandan.C.S @ Chandu -
JUVENILE

6. Shanthamma W/o Late Rajanna,
Aged about 48 years,

7. Ningamma W/o Late
Puttaswamygowda, Aged about 65
years,

All are R/o Chikkaballi Village,
Basaralu Hobli, Mandya District.

[Rep. by Sri.K.B.Sudhanva-Adv]

Date of Offence	14.10.2017
Report of Offence	14.10.2017
Arrest of the accused	-
Date of release on bail	-
Commencement of trial	08.04.2021
Closing of trial	29.07.2021
Name of the complainant	Puttalingamma
Offence complained of	143, 147, 447, 307, 324, 323, 504, 341, 354B, 506 r/w 149 of IPC.
Opinion of the Judge	As per the final order

J U D G M E N T

This case is received upon committal of the case in C.C.No.253/2019 on the file of I Addl. Senior Civil Judge & CJM Mandya in pursuance of the charge sheet filed by PSI of Keragodu Police Station, Mandya against the accused No.1 to 4, 6 and 7 for the offences punishable under Sections 143, 147, 447, 307, 324, 323, 504, 341, 354B, 506 r/w 149 of IPC.

2. Case of the prosecution may be stated as follows:

That on 14.10.2017 at 08.00 a.m, when CW1 Puttalingamma was going into her land bearing Sy.No.128/2 situated at Keragodu village, within the limits of Keragodu police station, in furtherance of common object, A1 to A4, A6 and A7 along with juvenile offender A5, have formed into an unlawful assembly armed with deadly weapons like sickle and committed rioting, and committed criminal trespass by entering into the land of CW1, A2 wrongfully restrained CW1 from proceeding further, A6 and A7 intentionally insulted CW1 by abusing her in filthy language and provoked CW1 intending that such provocation will cause her to break the public peace and A1 assaulted CW1 with the front portion of the pickaxe on the head, A3 assaulted CW1 with sickle on the left thigh and A2 assaulted CW1 with eucalyptus club which was lying on the land on the right thigh and caused simple hurt, A4 along with juvenile offender A5 assaulted CW1 with hands on the back and chest, A6 and A7 assaulted the CW1 with hands on cheek and stomach and voluntarily caused hurt to CW1, did an act, with such intention or knowledge

and under such circumstances by that act, the accused persons had caused the death of CW1, the accused persons would have been guilty of murder and accused used criminal force on CW1 with an intent to disrobe her and A1 and A2 committed criminal intimidation by threatening CW1 with injury to her person, with intent to cause alarm to the said CW1, to do an act, which they were not legally bound to do. Hence the Keragodu police has registered case against the accused persons in Cr.No.181/2017 for the offences punishable under sections 143, 147, 447, 307, 324, 323, 504, 341, 354B, 506 r/w 149 of IPC.

3. After completion of investigation, the complainant Police filed charge sheet against accused persons before the I Addl. Civil Judge & CJM Court, Mandya. As the offences charge sheeted against the accused persons are exclusively triable by this Court, the learned Magistrate complying with the provision of Sec.207 of Cr.P.C. and acting u/s.209 of Cr.P.C. has committed the case to this Court for trial. Hence, the matter is taken up for consideration before this Court accordingly. The accused persons were enlarged on bail.

4. In response to summons, accused persons have appeared before this court. Heard the learned counsel for the accused persons and learned PP for the State on framing of charge. As there are sufficient materials to frame charge against the accused persons charge was framed against the accused persons. The accused persons have denied the contents of charge and claimed to be tried.

5. The prosecution to bring home the guilt of the accused persons has examined 7 witnesses as PW.1 to PW.7. The learned Public Prosecutor has given up CW9 to CW11 as not necessary. Prosecution side evidence was closed. The prosecution has got marked Ex.P.1 to Ex.P.10 and got marked material objects MO.1 to MO.5.

6. After closing of evidence of prosecution witnesses, this Court has recorded the statement of accused persons u/s.313 of Cr.P.C, in which the accused persons have denied incriminating materials forthcoming against them in the prosecution evidence as false. But the accused persons have not chosen to adduce any defence evidence on their behalf. This court did not act under section 232 of CR.PC.

7. Heard the arguments.

8. Now the points that have arisen for the due consideration of this court are:

1. Whether the prosecution proves beyond reasonable doubt that on 14.10.2017 at 8.00 a.m, when CW1 Puttalingamma was going into her land bearing Sy.No.128/2 situated at Keragodu village, within the limits of Keragodu police station, A1 to A4, A6 and A7 along with juvenile offender A5, in furtherance of common object have formed into an unlawful assembly armed with deadly weapons like sickle and committed rioting, and thereby committed the offences punishable under sections 143, 148 r/w 149 of IPC?
2. Whether the prosecution further proves beyond reasonable doubt that on the above said date, time and place, infurtherance of common object, A1 to A4, A6 and A7 along with juvenile offender A5 committed criminal trespass by entering into the land of CW1 and thereby committed the offence punishable under section 447 r/w 149 of IPC?
3. Whether the prosecution further proves beyond reasonable doubt that on the above said date, time and place, infurtherance of common object, A2 wrongfully restrained CW1 from proceeding further, and thereby committed the offence punishable under section 341 r/w 149 of IPC?

4. Whether the prosecution further proves beyond reasonable doubt that on the above said date, time and place, infurtherance of common object, A6 and A7 intentionally insulted CW1 by abusing her in filthy language and provoked CW1 intending that such provocation will cause her to break the public peace and thereby committed the offence punishable under section 504 r/w 149 of IPC?
5. Whether the prosecution further proves beyond reasonable doubt that on the above said date, time and place, in furtherance of common object, A1 assaulted CW1 with the front portion of the pick axe on the head, A3 assaulted CW1 with sickle on the left thigh and A2 assaulted CW1 with eucalyptus club which was lying on the land on the right thigh and caused simple hurt and thereby committed the offence punishable under section 324 r/w 149 of IPC?
6. Whether the prosecution further proves beyond reasonable doubt that on the above said date, time and place, in furtherance of common object, A4 along with juvenile offender A5 assaulted CW1 with hands on the back and chest, A6 and A7 assaulted the CW1 with hands on cheek and stomach and voluntarily caused hurt to CW1, and thereby committed the offence punishable under section 323 r/w 149 of IPC?
7. Whether the prosecution further proves beyond reasonable doubt that on the

above said date, time and place, infurtherance of common object, A1 assaulted CW1 with the front portion of the pickaxe on the head, A3 assaulted CW1 with sickle on the left thigh and A2 assaulted CW1 with eucalyptus club which was lying on the land on the right thigh and voluntarily caused hurt to CW1, did an act, with such intention or knowledge and under such circumstances by that act, the accused persons had caused the death of CW1, the accused persons would have been guilty of murder and thereby committed the offence punishable under section 307 r/w 149 of IPC?

8. Whether the prosecution further proves beyond reasonable doubt that on the above said date, time and place, infurtherance of common object, the accused persons used criminal force on CW1 with an intent to disrobe her and thereby committed the offence punishable under section 354B r/w 149 of IPC?
9. Whether the prosecution further proves beyond reasonable doubt that on the above said date, time and place, infurtherance of common object, A1 and A2 committed criminal intimidation by threatening CW1, with injury to her person, with intent to cause alarm to the said CW1, to do an act, which they were not legally bound to do and thereby committed an offence punishable under section 506 r/w 149 of I.P.C?
10. What order ?

9. My answer to the above points are as follows;

Point No.1	:	Negative
Point No.2	:	Negative
Point No.3	:	Negative
Point No.4	:	Negative
Point No.5	:	Negative
Point No.6	:	Negative
Point No.7	:	Negative
Point No.8	:	Negative
Point No.9	:	Negative
Point No.10	:	As per final order for the following

REASONS

10. **Point No.1 to 9:** All these points are taken up for consideration together for avoiding repetition of discussion on the facts of the case and also regarding point of law.

11. The prosecution has examined in all 7 witnesses. PW.1 is the Puttalingamma informant as well as injured, PW2 Shivakumar, PW3 Vishwanatha and PW4 Shivaji are the eyewitnesses, PW5 Ramakrishnegowda and PW6 Ananda are the panch witnesses to the spot mahazar, PW7 Mallikarjunaswamy is the investigating officer.

12. PW1 Puttalingamma is the complainant as well as injured has deposed in her evidence that CW3 is her son and CW2, CW4 and CW5 are her villagers and accused persons

belong to her village. That about 4 years back, when she had been to her land to do work, she fell down and sustained injuries on her head, hands and legs. That the accused persons are the adjacent land owners. That there was no quarrel between them. That she has put her LTM to the complaint and does not know the contents of the same. That the police have not seized any spade, sickle, clubs in her presence and she has not identified them before the court. Further she has denied that the saree and blouse seized by the police does not belong to her. That she has not given any further statement. That she does not know what case has been registered against the accused persons. She has completely turned hostile and not supported the prosecution case, hence she has been cross-examined by the learned Public Prosecutor suggesting the prosecution case for which she has denied the same. Nothing material is elicited from her in her cross-examination in support of the prosecution case. She has denied having given complaint as per Ex.P1 and further statement as per Ex.P2.

13. PW2 who is the son of PW1, PW3 and PW4 are the eyewitnesses have deposed in their evidence that they know CW1. That about 4 years back she fell in her land and sustained injuries. That there was no quarrel between the accused persons and CW1. That they have not witnessed any quarrel and they have not given any statement in this regard.

14. PW2 has further deposed in his evidence that he has signed Ex.P3 mahazar in the police station on the request of the police and the police have not seized any material objects in his presence. Further he has deposed that he does not know the contents of the mahazar.

15. PW2 to PW4 who are the eyewitnesses have completely turned hostile and not supported the prosecution case, hence they have been cross-examined by the learned Public Prosecutor suggesting the prosecution case for which they have denied the same. Nothing material is elicited from them in their cross-examination in support of the prosecution case. They have denied having given statements as per Ex.P4 to Ex.P6 respectively.

16. PW7 Mallikarjunaswamy who is the I.O. has deposed in his evidence that on 14.10.2017 he has received the complaint from CW1 as per Ex.P1 and has registered the case in Cr.No.181/2017. He has further deposed in his evidence that on 15.10.2017 he visited the spot which was shown by CW3 and has conducted mahazar in the presence of panch witnesses CW4 and CW5 from 10.00 to 10.45 a.m., as per Ex.P2. He has further deposed in his evidence that at the time of conducting mahazar he has seized the spade, sickle, two clubs, blue colour blouse, yellow colour saree which was produced by CW3 and has reported them to P.F.No.112/2017. He has further deposed in his evidence that he has identified the above material objects as MO.1 to MO.5 respectively. He has further deposed in his evidence that he has taken the further statement of PW1 as per Ex.P2 and statements of CW2, CW3 and CW6 as per Ex.P4 to Ex.P6. He has further deposed in his evidence that on 14.11.2017 he has sent MO.1 to MO.5 for Mysuru Forensic Laboratory for analysis report. He has further deposed in his evidence that on 26.07.2018 he has received the FSL report as per Ex.P8. He has further deposed in his evidence that on 21.02.2019 he

has received the wound certificate as per Ex.P9 and discharge letter as per Ex.P10. He has further deposed in his evidence that the accused persons have appeared before him by obtaining court bail, he has arrested them and released them on bail. He has further deposed in his evidence that he has handed over the case for further investigation to CW13 and on 05.06.2019 he has received the case again from CW13 and after completion of investigation he has filed the charge sheet.

17. PW5 and PW6 who are the panch witnesses to the spot mahazar have deposed in their evidence that they have signed Ex.P3 spot mahazar about 3 to 4 years back in the police station and they do not know the contents of the same. That the police have not seized spade, sickle, club, saree and blouse in their presence. They have completely turned hostile and not supported the prosecution case, hence they have been cross-examined by the learned Public Prosecutor suggesting the prosecution case for which they have denied the same. Nothing material is elicited from them in their cross-examination in support of the prosecution case.

18. The evidence of PW7 IO with respect to conducting of spot mahazar as per Ex.P3 and seizure of MO.1 to MO.5 through it is not supported by the evidence of panch witnesses to ExP3 spot mahazar. PW5 and PW6 panch witnesses to spot mahazar have not supported the prosecution case and they have deposed that the police have not conducted mahazar in their presence and not seized MO.1 to MO.5 through it. As such the prosecution has miserably failed to prove the contents of Ex.P3 and seizure of MO.1 to MO.5 through it and consequently failed to connect the accused persons to the MO.1 to MO.5.

19. In the instant case, the injured Puttalingamma is examined as PW.1. She has totally turned hostile to the case of the prosecution. It is her specific evidence that she does not know as to who has assaulted on her person. According to her, she has not given any statement to the effect that it is accused who have assaulted on her cheek, stomach with hands and on her thigh with spade, sickle and clubs and disrobed her. She has denied having given complaint as per ExP1 and further statement as per ExP2 and she has denied

the contents of the same. Therefore, the hostile attitude of PW.1 injured and PW2 to PW4 eyewitnesses has come in the way of the prosecution in proving Ex.P.1 complaint.

20. As discussed earlier, the evidence of PW1 informant as well as the injured and PW2 to PW4 eyewitness is filled with material contradictions and omissions and it is inconsistent to the prosecution case. PW1 has unequivocally deposed that the accused persons have not assaulted her with MO.1 to M.O.5 and that she has sustained injuries by self fall in her land. PW2 to PW4 have deposed that they have not witnessed the incident. As such their evidence is of no use to the prosecution case. PW2 to PW4 eyewitnesses have completely turned hostile and have not supported the prosecution case. As such the prosecution has miserably failed to prove the guilt of the accused persons beyond reasonable doubt by placing clear, cogent and consistent evidence and benefit of doubt goes to the accused persons. Therefore, it is held that the prosecution has failed to bring home the guilt of the accused persons for the offences punishable u/s. 143, 147, 447, 307, 324, 323, 504, 341,

354B, 506 r/w 149 of IPC. Accordingly, points No.1 to 9 are answered in the Negative.

21. **Point No.10:** In the view of my finding on point No.1 to 9 in the **Negative**, I proceed to pass the following:

ORDER

A1 to A4, A6 and A7 are hereby acquitted under section 235(1) of Cr.P.C. of the offences punishable under Sections 143, 147, 447, 307, 324, 323, 504, 341, 354B, 506 r/w 149 of IPC.

Their bail bonds and that of their surety stands cancelled.

The properties shown in P.R.No.35/2021, are ordered to be kept till the disposal of case against A5 juvenile offender.

[Dictated to the Stenographer transcribed by her on computer. Corrected and then pronounced by me in the open Court dated this day the 7th August, 2021]

[J.P.ARCHANA]

IV Addl. Dist. & Sessions Judge,
Mandya.

ANNEXURE

1. **No. of witnesses examined on behalf of prosecution.**

PW1 : Puttalingamma

PW2 : Shivakumar
PW3 : Vishwanatha
PW4 : Shivaji
PW5 : Ramakrishnegowda
PW6 : Ananda
PW7 : Mallikarjunaswamy

2. **No. of documents marked on behalf of prosecution.**

Ex.P1 : Complaint
Ex.P2 : Further statement of PW1
Ex.P3 : Mahazar
Ex.P4 : Statement of PW2
Ex.P5 : Statement of PW3
Ex.P6 : Statement of PW4
Ex.P7 : FIR
Ex.P8 : FSL Report
Ex.P9 : Wound Certificate
Ex.P10 : Discharge summary

3. **No. of witnesses examined on behalf of accused.**

NIL

4. **No. of documents marked on behalf of accused.**

NIL

5. **Materials objects marked on behalf of prosecution.**

MO.1 : One Spade
MO.2 : One sickle
MO.3 : Club
MO.4 : Blouse
MO.5 : Saree

[J.P.ARCHANA]

IV Addl. Dist. & Sessions Judge,
Mandya.

Judgment pronounced in open court
(Vide separate judgment)

O R D E R

A1 to A4, A6 and A7 are hereby acquitted under section 235(1) of Cr.P.C. of the offences punishable under Sections 143, 147, 447, 307, 324, 323, 504, 341, 354B, 506 r/w 149 of IPC.

Their bail bonds and that of their surety stands cancelled.

The properties shown in P.R.No.35/2021, are ordered to be kept till the disposal of case against A5 juvenile offender.

IV ASJ,
Mandya.

