

KAVN010003172022



Presented on : 10-03-2022
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Decided on : 07.07.2026
Duration : 4Y/4M/26Days

**IN THE COURT OF THE PRINCIPAL DISTRICT &
SESSIONS JUDGE, VIJAYANAGARA DISTRICT,
HOSAPETE.**

**PRESENT: SRI K.M.RAJASHEKAR,
B.Sc.,LL.M.,
Principial District & Sessions Judge,
Vijayanagara District, Hosapete.**

DATED THIS 7th DAY OF JULY, 2026.

SESSIONS CASE No.5024/2022

***Complainant : The State,
represented by the P.S.I., H.B.Halli
Police Station, Vijayanagara District.***

**(Learned Public Prosecutor)
V/s**

Accused:

A-01 Devaramani Ningappa S/o Sanna Hanumanthappa
Age: 28
Kogali Thanda, Now R/at Vattammanahalli Village, H.B.Halli Taluk,
Vijayanagara District

2:A-02 Devaramani Nilappa S/o Sanna Hanumanthappa
Age: 30
Kogali Thanda
Now R/o Vattamanahalli Village
H.B.Halli Taluk
Vijayanagara District

(By Sri.S. Chandrappa- Advocate)

J U D G M E N T

This is Charge Sheet submitted by the PSI- Vaishali of H.B.Halli Police Station against the accused persons for the offences punishable U/S 323,324,307,504,506,R/W34 of **Indian Penal Code (I.P.C.)**.

2. Before taking the case on merits it is to be noted that there is a case and counter case registered against both complainant and accused side in Crime No.151/2020 and 152/2020 of H.B.Halli Police Station. The nutshell of the allegations are that, *there is a Civil dispute in between Prakash S/o. Ningappa and Devaramani Ningappa, Nilappa sons Sanna Hanumanthappa, in respect of the land bearing Sy.No.361/1, situate at Vattammanahalli Village, H.B.Halli Taluk. In view of the said vengeance, on 24.08.2020, at about 9.30 a.m., when PDO of Benakallu Gramapanchayath came to the aforesaid place to conduct a survey of the said land, at that time Devaramani Ningappa, Nilappa opposed the same, abused Prakash in filthy language, raised quarrel caught hold his collar and assaulted him on his chest, assaulted Shrishaila with a club on his right leg, with key of*

a motor cycle on his left eye and caused injuries, threatened on dire consequences to take away their lives; on the other hand on the same day I.e, on 24.08.2020, at about 9.00 a.m., when Sumangalamma and others while conducting domestic work sanctioned under the Devadasi Scheme, at that time Angadi Ningappa and others picked-up quarrel with her; assaulted her on her cheek and gave blow to her hands and on her person, abused in filthy language, pulled her saree, with an intention to outrage her modesty, threatened them on dire consequences to take away their life.

3. Thereafter, on the basis of the complaint lodged by the complainant-C.W.1 Prakash, IO has registered a case in Crime No.151/2020; of Hagaribommanahalli Police Station for the offences punishable U/S 447, 323, 326, 307, 504, 506, R/W34 of I.P.C. and after completion of investigation submitted Charge Sheet against accused for the offences punishable U/S 323, 324, 307, 504, 506, R/W34, of I.P.C.

The committal Court after taking cognizance of the offences, registered the case against the accused persons. The accused appeared before the Court through their Counsel and they got released on bail and copy of Charge Sheet was furnished to accused as required U/S 207 of Cr.P.C. and thereafter hearing both sides, case has been committed for trial.

After registration of case before this Court, accused were secured and they put appearance before the Court through their Counsel and once again got released on bail, as they were already on bail, and after hearing both sides, the charge for the offences punishable U/S **323, 324, 307, 504, 506, R/W34** of I.P.C. has been framed and it was read over and explained to the accused in the language known to them. The accused have pleaded not guilty and claimed to be tried by the Court. Hence, the trial was fixed.

In support their case, the prosecution has examined in all 4 witnesses as P.W.1 to 4 and got marked documents at Ex.P.1 to P20 and MO.1 to 3.

Spot and recovery Mahazar, sketch, photos, FIR, wound certificates, and other documents are marked with defence side consent. CW.2, 3, 14 to 19 were given up on consent of defence counsel. Since the very injured eye witnesses PW.1 and 2 and independent eye witnesses PW.3 and 4 denied the incident much less the assault and attempt to murder, hence examining CW.3, 6 to 9, 20 and 21 were dropped by rejecting the prayer of Learned Public Prosecutor, as no purpose will serve by examining these witnesses.

After conclusion of prosecution evidence, accused were dispensed from examination under Section 313 of Cr.P.C., as there are no incriminating circumstances established against the accused. Accused did not choose to lead any evidence on their behalf.

4. heard both side arguments and perused the records.

5. Now the points that arose for my consideration are as under:

- 1) Whether the prosecution proves beyond all reasonable doubt that *on 24.08.2020, at about*

9.30 a.m., when PDO of Benakallu Gramapanchayath came to conduct survey of the land Sy.No.361/1 situate at Vattammanahalli village, at that time Devaramani Ningappa, Nilappa opposed the same, abused Prakash in filthy language, raised quarrel caught hold his collar and assaulted him on his chest, assaulted Shrishaila with a club on his right leg, with key of a motor cycle on his left eye and caused injuries, threatened on dire consequences to take away their lives; Thereby accused have committed offences punishable U/Sections 323, 324, 307, 504, 506, R/W34 of I.P.C.?

2) *What order?*

6. My findings on the above points are as under:

Point No.1 : In the Negative;

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

REASONS

7. Point No.1 : Upon going through the materials available on record, the allegations in the Charge Sheet is that, *on 24.08.2020, at about 9.30 a.m., when PDO of Benakallu Gramapanchayath came to conduct survey of the land Sy.No.361/1 situate at Vattammanahalli village, at that time Devaramani Ningappa, Nilappa opposed the same, abused Prakash in filthy language, raised quarrel caught hold his collar and assaulted him on his chest, assaulted*

Shrishaila with a club on his right leg, with key of a motor cycle on his left eye and caused injuries, threatened on dire consequences to take away their lives.

8. In support of its case, prosecution has examined 4 witness as P.W.1 to 4 out of 21 witnesses cited in the Charge Sheet and got marked documents at Ex. P.1 to P.20 and M.O.1 to 3.

9. On careful perusal of the evidence adduced by the prosecution, it indicates that, the complainant and the injured eye witnesses, themselves claims that the accused never assaulted them and not attempted to murder.

PW.1 who is the complainant and injured eye witness has deposed as under,

"that I know the accused. CW.2 is my brother. 5 years back while I and CW.2 were proceeding on the motor cycle and we fell from the motorcycle and sustained injuries. At that time there was an active hostility between us and accused persons with regard to property. The accused did not attack on me or CW.2 or tried to

commit murder with stick, motorcycle key, However, some persons not cordial with us have took our signatures in blank sheet and filed a complaint and counter complaint."

PW.2 brother of complainant/PW.1 has also deposed the same as deposed by the PW.1.

PW.3 and 4 who are independent eye witnesses have turned hostile and not supported the case of the prosecution.

10. Even though, prosecution cross-examined these witness at length after treating them hostile, but unable to elicit any incriminating material to prove that on 24.08.2020, at about 9.30 a.m., when PDO of Benakallu Gramapanchayath came to conduct survey of the land Sy.No.361/1 situate at Vattammanahalli village, at that time Devaramani Ningappa, Nilappa opposed the same, abused Prakash in filthy language, raised quarrel caught hold his collar and assaulted him on his chest, assaulted Shrishaila with a club on his right leg, with key of a motor cycle on his left eye and caused injuries, threatened on dire consequences to take away their lives.

It is significant to note that PW1 and 2 are the only injured eye witness to this incident. The very lodging of complaint is also flatly denied by these witnesses. None of the accused either assaulted them or attempted to take away their life. Hence, prosecution utterly failed in proving even prima facie case regarding the incident muchless the assault on the victim.

11. Before taking the case for discussion on merits, it is to be noted that, as mentioned above, this is a case and counter case arose out of a single incident. In this connection our Hon'ble High Court has mandated that, a case and counter case should be investigated by a single Investigating officer. Their lordships of our Hon'ble High court has laid down the principle as to how the investigation in case and counter case to be conducted and concluded. For the sake of convenience the relevant portion of the judgments rendered by **THE HON'BLE HIGH COURT OF KARNATAKA** **AT** **BENGALURU** CRL.P No. 6248 of 2024 BETWEEN:1.SRI GAJENDRA K.M., AND: 1. STATE BY POLICE SUB-INSPECTOR is reitrated as under.

it becomes necessary to notice the law, as laid down by the Apex Court or this Court with regard to necessity of the same Investigating Officer investigating into crimes, which result in filing of a case and a counter case. The Apex Court in the case of *State of M.P. v. Mishrilal (Dead) and Others*¹, has held as follows:" 6. For the sake of convenience we have devised to categorize the case under the following headings:

(1) cross-cases be tried together, (2) genesis of occurrence; (3) presence of accused Ashok Kumar at the place of incident; (4) common object; (5) right of private defence; and (6) non- explanation of the injuries sustained by the accused, by the prosecution. In the instant case, it is undisputed, that the investigating officer submitted the challan on the basis of the complaint lodged by the accused Mishrilal in respect of the same incident. It would have been just, fair and proper to decide both the cases together by the same court in view of the guidelines devised by this Court in *Nathi Lal* case [1990 Supp SCC 145 : 1990 SCC (Cri) 638] . The cross- cases should be tried together by the same court irrespective of the nature of the offence involved. The rationale behind this is to avoid the conflicting judgments over the same incident because if cross-cases are allowed to be tried by two courts separately there is likelihood of conflicting judgments. In the instant case, the investigating officer submitted the challan against both the parties. Both the complaints cannot be said to be right. Either one of them must be false. In such a situation, legal obligation is cast upon the investigating officer to make an endeavor to find out the truth and to cull out the truth from falsehood. Unfortunately, the investigating officer has failed to discharge the obligation, resulting in grave miscarriage of justice."(Emphasis supplied) The Apex Court observes that the Investigating Officer submits challan on the basis of the complaint lodged by two persons on the same incident. Two challans are registered. The Apex Court observes that both the incidents cannot be true. One of them must be false. Therefore, the Apex Court observes that a same Investigating Officer must investigate into a case and a counter case. The Apex Court was following the judgment earlier rendered in the case of *Nathi Lal v. State of U.P.*². In between the judgment so rendered by the Apex Court in *Nathi Lal* and *Mishrilal* (supra), the learned Judge of this Court had in the case of *Abdul Majid Sab and Others vs State of Karnataka by Ripponpete Police*³, had held as follows:" In case and counter, in the final report of both the cases, the I.O., has to necessarily furnish all the documents pertaining to the other case and should explain the genesis of the incident explaining whether it is a free fight between two persons/groups and that both are aggressors. The I.O. should state whether one of the persons/groups is an aggressor and that whether the other has caused injuries in exercise of the right of private defence. It is necessary that the I.O. should explain the injuries on the accused. The final report should necessarily contain the above material to enable the prosecutors to lead evidence correctly and for the Judge to understand the incident in a proper legal perspective to understand the guilt of the accused. It is well-settled principle in a case and a counter the same I.O. should investigate both the cases and should file final report. The different prosecutors should conduct prosecution, the same Judge should try the cases simultaneously and render separate judgments. It is a judicial dicta that the Court should not read/get influenced by the evidence recorded in the other case, unless the said material in the other case is marked as an evidence in the case in question. To say that the Court should not read/influenced by the evidence recorded in the other case under all circumstances would be a perverse view and runs counter to the logic of holding simultaneous investigation by the same I.O. and trial by the same Judge. Otherwise, it is impossible for the Judge to appreciate the guilt of the accused to find out whether both are aggressor or sand both are guilty of indulging in free fight or one of them is an aggressor or and the other caused injuries on the accused in exercise of right of private defense. In this regard for useful benefit, the provisions of Madras Police Standing Orders pertaining to investigation of a case and a counter in Rule-588A are extracted hereunder:"588-A : Charge sheets in cases and counter cases : In a complaint and counter complaint obviously arising out of the same transaction the Investigating Officer should enquire into both of them and adopt one or the other of the two courses, viz., (1) to charge the case whether the accused were the aggressors or (2) to refer both the cases if he should find them untrue. When the Investigating Officer proceeds on the basis of the complaint it is his duty to exhibit the counter complaint in the Court and also to prove medical certificates of persons wounded on the opposite sides. He should place before the Court a definite case which he asks it to accept. The Investigating Officer in such cases should not accept in to one complaint and examine only witnesses who support it and give no explanations all for the injuries caused to the other side. The truth in these cases is invariably not in strict conformity with either complaint and it is quite necessary that all the facts are placed before the Court to enable it to arrive at the truth and a just decision. If the Investigating Officer finds that the choice of either course is difficult viz. to charge one of the two cases or to throw out both, he should seek the opinion of the Public Prosecutor of the district and act accordingly. A final report should be sent in respect of the case referred

as mistake of law and the complainant or the counter-complainant, as the case may be should be advised about the disposal by a notice and to seek remedy before the specific Magistrate, if he is aggrieved by the disposal of the case by the Police.” We place on record that we have not come across any single case so far where the final reports in case and counter are filed in the manner indicated above. The imprudent and casual practice of submitting final reports without reference to relevant material of the connected case would only result in improper prosecution and many a time the truth of the incident is not projected before the Court, which ultimately result in unjust conviction or unjust acquittal. After the judgment of this Court (supra), the Director-General of Police and Inspector-General of Police, issues a circular on 21.06.2013. The Circular was in tune with what the law is laid down by the Apex Court and this Court. Unfortunately, the circular has remained only on paper. It appears that it is issued only for the sake of its issuance and not its implementation. Ten years have passed by, this Court is coming across plethora of cases where a case and a counter case is still being investigated by two different Investigating Officers. The circular cannot be kept in cold storage, as the reasons for its issuance was to bring in investigation and prosecution in tune with law. There are a few cases where the same Investigating Officer is investigating and there are whole lot of cases where different Investigating Officer investigating the case and a counter case. This result in grave injustice and some times failure of justice. All on account of the callous act on the part of the State in not implementing its own circular notified to implement the law. Therefore, it has become necessary to direct the State to retrace its steps, again issue a circular or bring necessary amendments to the Karnataka Police Manual, failing which, it would continue to act contrary to law, which the State is not expected to do. A circular shall ensue depicting that in the event different Investigating Officers investigate into a case and a counter case, those Investigating Officers would become answerable to a Departmental Action against those persons, who venture into appointing two Investigating Officers to investigate a case and a counter case, as the law is lucid the circular to implement the law is pellucid. Therefore, the State shall henceforth ensure that a case and a counter case shall be investigated by the same Investigating Officer.

Keeping in view of the mandates laid down by their lordships in the above referred judgment, if we analyze the case on hand it indicates that, Cr.No.151/2020 and Cr.No.152/2020 arose out of a common incident took place on 24-08-2021 at 9.30 to 9.31 a.m at Vattammanahalli village in connection property dispute. Looking at the charge sheet it indicates that both cases are investigated by different investigating officers.

12. In the above referred judgment Hon’ble High Court specifically mandated that, “In a complaint and counter complaint obviously arising out of the same

transaction the Investigating Officer should enquire into both of them and adopt one or the other of the two courses, viz., (1) to charge the case whether the accused were the aggressors or (2) to refer both the cases if he should find them untrue. When the Investigating Officer proceeds on the basis of the complaint it is his duty to exhibit the counter complaint in the Court and also to prove medical certificates of persons wounded on the opposite sides. He should place before the Court a definite case which he asks it to accept. The Investigating Officer in such cases should not accept in to one complaint and examine only witnesses who support it and give no explanations all for the injuries caused to the other side. The truth in these cases is invariably not in strict conformity with either complaint and it is quite necessary that all the facts are placed before the Court to enable it to arrive at the truth and a just decision" . In this case, the investigating officer in crime No.152/2020, in charge sheet has mentioned about the existence of counter case. But unfortunately, no where in the charge sheet it is mentioned about any injury found on the accused.

Hence, the very basic principles were violated by the investigating agency.

13. However, looking at the merits of the case, even though prosecution able to examine injured eye witnesses out of which the complainant and injured eye witnesses themselves not supported the case of prosecution but, unfortunately, the basic mandate of Hon'ble High Court is violated grossly by investigating officer. Hence, as rightly pointed out by the defence counsel this is just to counter the case cannot be ruled out. Basing on the material available on record, I am of the opinion that, prosecution has utterly failed in making proper investigation in this kind of case and counter case. Material available on record are totally insufficient, accept the theory of prosecution beyond reasonable doubt. The case of the prosecution is crucified because of lapse on the part of investigating agency. Hence, I am of the opinion that, material available on record are totally insufficient to hold the guilt of the accused beyond reasonable doubt. Under the facts and circumstances of this case, I am of the opinion that prosecution is unsuccessful in establishing the guilt of the accused persons for the alleged

offence beyond all reasonable doubt. Hence, I hold that accused is not guilty of the alleged offences punishable.

14. However, based on the materials available on record, I am of the opinion that, the prosecution utterly failed in establishing the guilt of the accused persons against the charges leveled against them. Hence, I hold that, accused are entitled for an order of acquittal. Based on the facts and circumstance of this case, I am of the opinion that, prosecution is utterly failed in proving the guilt of the accused for the offences punishable U/S 323, 324, 307, 504, 506, R/W34 of I.P.C. Hence, accused are entitled for an order of acquittal. Accordingly, I answer Point No.1 in Negative.

15.**Point No.2**:- From the discussions made in the above Point No.1, it is very much clear that accused are entitled for an order of acquittal and in the result, I proceed to pass the following:

ORDER

Invoking provisions U/S 232 of Cr.P.C., (U/s. 255 BNSS) accused No.1 and 2 are acquitted for the offences punishable U/S 323, 324, 307, 504, 506, R/W34 of I.P.C.

The bail bond of the accused and surety shall stand cancelled and they are directed to set at liberty forthwith.

M.O.1 to 3 being worthless, are ordered to be destroyed, after expiry of appeal period, if not required for any other purpose.

(Dictated to the Judgment Writer directly on computer, typed & computerized by her, corrected and signed by me and then pronounced in the open Court on this the 7th day of July, 2026).

**(K.M.RAJASHEKAR),
PRINCIPAL DISTRICT & SESSIONS JUDGE,
VIJAYANAGARA DISTRICT, HOSAPETE.**

ANNEXURE**Witnesses examined on behalf of Prosecution:**

PW-1	:	Prakash
PW-2	:	Srishaila
PW.3	:	Revanna
PW.4	:	Pampanna

Witnesses examined on behalf of Accused:

NIL

Exhibits marked on behalf of Prosecution:

Ex.P.1	:	Complaint.
Ex.P1(a):		Signature of PW.1
Ex.P.2	:	seizure Panchanama
Ex.P2(a):		Signature of PW.1
Ex.P.3	:	Photo
Ex.P.4 to 7	:	Statement of PW.1 to 4
Ex.P.8	:	FIR
Ex.P.9	:	Spot Panchanama
Ex.P.10	:	Seizure Panchanama
Ex.P.11	:	Sketch
Ex.P12 to 14	:	Photos
Ex.P15	:	Form No.10
Ex.P16	:	Letter dated 25.11.2020
Ex.P17, 18	:	Wound Certificates.
Ex.P19	:	Certificate U/s 65(B)
Ex.P20:	:	Arrest Memo.

Exhibits marked on behalf of Accused:

NIL

Material Objects marked on behalf of Prosecution:

M.O.1: Stick

M.O.2: Motor cycle

M.O.3: Shirt.

**(K.M.RAJASHEKAR),
PRINCIPAL DISTRICT & SESSIONS JUDGE,
VIJAYANAGARA DISTRICT, HOSAPETE.**