

KAVN500005122018



**IN THE COURT OF THE SENIOR CIVIL JUDGE &
JMFC., HARAPANAHALLI**

/ P R E S E N T /

Smt. **Usha Rani.R.** B.A.L. LL.M.,
Senior Civil Judge & JMFC.,
Harapanahalli.

Dated on this the 1st day of August 2026

CRIMINAL CASE No.208-2018

Complainant: The State,
(By the PSI., of Chigateri Police
Station, Reptd.By: APP.Harapanahalli.)

// Vs. //

Accused: 1.Smt. Srimathemma W/o Kotreshappa
aged about 35 years, R/o Baliganuru
village, Harapanahalli taluk.

2. Sri. Chandrappa S/o Kotreshappa
aged about 31 years, R/o Baliganuru
village Harapanahalli taluk.

3. Sri. Kotreshappa S/o Basappa, aged
about 60 years, R/o Baligannuru billage
Harapanahalli taluk

4. Sri.Basavaraja S/o Kotreshappa,

aged about 34 years, R/o Baliganuru village, Harapanahalli taluk.

5. Sri.Narappa @ Narendra S/o Vamadevappa, aged about 27 years, R/o Baliganuru village Harapanahalli taluk

(Accused No.1,2, 4 and 5 by Sri. B.G.B., Advocate)
Accused No. 3 abated)

Date of Commission of offence	: 17.06.2018
Date of Report of offence	: 17.06.2018
Date of Arrest of the Accused	: Accused are on Bail
Name of the Complainant	: Sri.Muddanagoudara Kuberagouda
Date of Recording of Evidence	: 16.08.2025
Date of Closing of Evidence	: 09.07.2026
Offences Complained of	: U/s 143, 147, 448, 323, 324, 354,504 and 506 R/w Sec 149 of IPC.,
Opinion of the Judge/Result	: Accused are found not guilty/ acquitted.

J U D G M E N T

The instant prosecution has been launched by Chigateri Police against the accused persons alleging the offences punishable u/s 143, 147, 448, 323, 324, 354,504 and 506 R/w Sec 149 of IPC.,

2. The case of the prosecution in a nutshell is as follows:-

That on 17.06.2020 at about 8.30 am when the complainant, CW4 and 6 were in their house accused No. 1 to 5 criminally trespassed into the house of the complainant and accused No.1 pulled CW4 by her hair and manhandled her. At that time accused No. 2 pulled CW4 by her saree and caught hold of her blouse and tore it. He assaulted over her forehead with a club and caused bleeding injuries. When CW5 came to rescue accused No.2 assaulted with the same club. Accused No. 3, 4 and 5 assaulted and caused internal injuries to CW5. Accused No. 2 brought a sickle and assaulted over the left hand of the complainant causing bleeding injuries. Accused No. 2,3, 4 and 5 have assaulted over the ear of CW6 and also on the neck of CW6. Accused assaulted CW7 with hands and limbs. Accused also claimed that they have share in the land of the complainant and abused CW4 Siddamma in filthy language so as to provoke breach of peace and threatened with dire consequence of death to her children. The quarrel was pacified by CW8 to 10. Thus, accused no. 1 to 5 are alleged to have committed offenses under sections 143, 147, 448, 323, 324, 354,504 and 506 R/w Sec 149 of IPC.

3. After investigation, the Chigateri police have filed the charge sheet against the accused No.1 to 5

Cognizance was taken as per section 190 of the Code of Criminal Procedure and summons was issued to the accused. Later accused persons were enlarged on bail. Copies of the prosecution papers has been furnished to the accused persons as per section 207 of Code of Criminal Procedure Code. Accused No.3 died and case against him is abated. The accused No.1, 2 ,4 and 5 were heard before framing of the charge and this court opined that there were sufficient grounds to proceed in this case. Therefore charges were framed read over and explained to the accused No.1, 2 ,4 and 5, in response to which accused persons pleaded not guilty and claimed trial. Later the case was posted for recording evidence of prosecution.

4. The prosecution in order to prove the case against the accused had cited 12 witnesses and among them chose to examine 10 witnesses as PW 1 to 10 and relied on documents marked as Ex.P.1 to P7 and MO 1 to 3. Defence got marked Ex.D.1 photograph. Prosecution has given up examination of CW9 and CW4 was reported to be dead. After completion of prosecution evidence, the incriminating evidence appearing against the accused No.1, 2 ,4 and 5 was read over and explained to them as required U/Sec. 313 of Cr.P.C. Accused no 1 ,2,4 and 5

denied the entire incriminating evidence as appears against them and chose not to lead defense evidence.

5. Heard the arguments canvassed on both sides and perused documents on record.

6. The points that arise for consideration are :

1. Whether the prosecution proves beyond all reasonable doubts that on 17.06.2020 at about 8.30 am when the complainant CW4 and 6 were in their house accused No. 1 to 5 criminally trespassed into the house of the complainant and committed the offence of criminal trespass punishable under section 448 of IPC?

2. Whether the prosecution proves beyond all reasonable doubts that at the above stated date time and place in furtherance of their common object, accused formed themselves in an unlawful assembly with a common object to assault the complainant and witnesses and thereby committed offence under section 143 of IPC?

3. Whether the prosecution proves beyond all reasonable doubts that at the above stated date time and place in furtherance of their common object, accused formed themselves into an unlawful assembly, went near

the house of complainant to assault the complainant and rioted thereby committed offence under section 147 of IPC?

4. Whether the prosecution proves beyond all reasonable doubts that at the above stated date time and place in furtherance of their common object, accused No.1 pulled CW4 by her hair and manhandled her and accused No. 2 pulled CW4 by her saree and caught hold of her blouse and tore it and manhandled her and outraged her modestly and thereby committed offense under section 354 of IPC?

5. Whether the prosecution proves beyond all reasonable doubts that at the above stated date time and place in furtherance of their common object, Accused No.2 assaulted the complainant over forehead with a club and caused bleeding injuries and when CW5 came to rescue accused No.2 assaulted with the same club and voluntarily caused simple injuries, accused No. 2 assaulted over the left hand of the complainant with a sickle causing bleeding injuries and thereby committed offence punishable under section 324 of IPC?

6. Whether the prosecution proves beyond all reasonable doubts that at the above stated date time and

place in furtherance of their common object, accused No. 2,3, 4 and 5 assaulted over the ear of CW6 and also on the neck of CW6, assaulted CW7 with hands and limbs voluntarily caused simple injuries and thereby committed offence punishable under section 323 of IPC?

7. Whether the prosecution proves beyond all reasonable doubts that at the above stated date time and place in furtherance of their common object, accused also claimed that they have share in the land of the complainant and abused CW4 Siddamma in filthy language so as to cause provoke breach of peace and thereby committed offence under section 504 of IPC?

8. Whether the prosecution proves beyond all reasonable doubts that at the above stated date time and place in furtherance of their common object, accused threatened the complainant and CW4 with dire consequences of death and committed the offence of criminal intimidation punishable under section 506(2) of IPC?

9. Whether the prosecution proves beyond all reasonable doubts that at the above stated date time and place all the accused had knowledge that they are doing acts in furtherance of their common object by forming

themselves into an unlawful assembly and thereby each of the accused are liable to be punished under section 149 of IPC?

10. What order or sentence?

7. My findings on the above points are as follows:

Point no 1 to 9 : In the negative

Point no 10: As per the final order for the following:

REASONS

8. **Point no 1 to 9** : These points are taken together for common consideration to avoid repetition of facts and evidence. The complainant CW1 Sri.Kuberagouda is examined as PW1 and he deposed that on 17.06.2018 at 8.30 am when the Siddamma, Megharaj, Ambika Basavanagouda were drinking tea Srimathamma suddenly came and caught hold the hair of Siddamma and assaulted her. Chadrappa pulled saree of Siddamma and placed hand on her blouse and pulled. Chandrappa assaulted over the forehead of Siddamma with a club. Kotreshappa, Chandrappa, Basavaraj, Naresh, Srimathamma assaulted Ambika over her ear and her ear was torn. They try to fracture the leg of

Basavanagouda. Chandrappa brought sickle and assaulted over his left hand. Kotreshappa, Chandrappa assaulted over Basavaraj and Ambika over the ear and ear was torn. Kotreshappa and Chandrappa assaulted Basavaraj kicked him and he tried to fracture his leg. They stated that they are having share and division is not proper and also threatened him with consequences of death. They assaulted using club and sickle. They screamed. Then CW8 to 10 came and pacified the quarrel. Subsequently they went to police station to lodged a complaint and thereafter went to hospital. Complaint is marked as Ex.P.1. Police arrived on the spot on the next day and in the presence of CW2 and 3 and drew panchanama at the spot as per Ex.P.2 in between 10 to 11 am. They also seized a club, sickle and a torn blouse marked as MO1 to 3.

9. In the cross examination PW1 stated that accused are the children of his younger uncle. He admitted about the pendency of civil case and that there was no partition between them and the accused till date. To the suggestion that no incident took place she denied all the suggestion. PW1 was unable to state who assaulted whom. According to him all colludingly together assaulted him. Ambika's left ear was torn. Basavanagouda sustained fracture to his leg. He stated

that all the accused held club. Firstly Chandrappa assaulted but he cannot say who assaulted subsequently. He admitted that there is no club before the court. He stated that he has not given club to the police. Accused assaulted using stone but stone is also not before the court. He admitted that since club and stones were not used by the accused it is not given to the police. He admitted that on 17.06.2018 at about 8 pm there was a quarrel in between them and the accused. He denied that he and Chandrappa assaulted the accused persons. He admitted that Chandrappa filed counter case complaint against him. He denied that after Chandrappa gave complaint he gave this complaint. He denied that they themselves assaulted the accused. He admitted that on the complaint filed by the accused CC No. 210/2018 is filed against them.

10. Witness to the spot panchanam CW2 Sri.Nagaraj is examined as PW10. He deposed that police took his signature on 18.06.2018 on the panchanama marked as Ex.P.2. Panchanama was drawn between 10 to 11 am. Police seized a sickle and two clubs and a blouse belonging to Siddamma. He identified MO 1 to 3.

11. In the cross examination he stated that police issued notice to him. He admitted that in the photograph Ex.D.1 blouse and club is not visible. He admitted that there is only one club before the court. He denied that he signed on the panchanama at the police station.

12. Another witness to spot panchanama CW3 Sri.Manjunath is examined as PW9. Even he supported the prosecution case and deposed about drawing of panchanama by the police on 18.06.2018 and they seized a sickle, club and blouse which are marked as MO 1 to 3.

13. In the cross examination PW9 admitted that he does not know the contents of panchanama. He stated that MO1 to 3 was at the spot. He admitted that in the photograph Ex.D.1 blouse and club is not visible.

14. One of the victim Sri Megharaj S/o Naranagouda is examined as PW2. He only deposed that there was an incident in the year 2018. His father and Naranagoud had divided the properties. When they went to cultivate their land quarrel took place. He was near the house. Basavaraj, Kuberagouda were drinking tea in the house. At that time Srimathamma came and caught hold of hair of his mother pulled the blouse and tore it.

Chandrappa assaulted over the left hand of Kuberagouda with a sickle. He assaulted over his waist hands and limbs with a club. Thereafter he went to Chigateri police station his mother sustained injuries to her forehead. Thereafter they gave complaint and went to Chigateri hospital. Quarrel was pacified by Mallikarjunagouda, Santhosh and Kuberagouda.

15. This witness is treated as partly hostile and subjected to cross examination PW 2 admitted that at the time of incident Ambika came to rescue and at that time Ambika sustained injuries to her ear. She admitted that Narappa assaulted Basavanagouda over hands and limbs and he sustained injuries. He also admitted that accused gave life threat.

16. In the cross examination PW2 admitted that they and the accused are brothers and there is a civil dispute regarding the property which is still pending. He stated that incident took place in the land. Chandrappa Narappa Kotrappa assaulted him using club. A single club was used by them to assault. They assaulted over his waist, hand limbs and back and fell on the ground and sustained bleeding injuries. His cloth was blood stained. He has also given blood stained cloth to the police. He denied that on 17.06.2018 at about 8 am when

the accused had gone to their land they have assaulted the accused and thereafter they filed this false complaint.

17. CW5 Smt. Ambika another victim is examined PW3. She deposed that accused are related to her. In June 2018 at about 8 am when she was drinking tea at her house Kotrappa, Srimathamma Basavaraj came and assaulted them. They assaulted and her ear ring fell. She went to hospital. Megharaj and Kubergouda assaulted her. They pulled saree of Siddamma and assaulted her using a club. CW9 and 10 pacified the quarrel.

18. In the cross examination PW3 denied that Chandrappa had given a counter complaint. It is admitted that there is ill will regard to property between them and the accused persons. Torn ear ring was not given to the police. She denied that due to property dispute they themselves assaulted the accused and since accused had given complaint with intention to compromise the case they filed this case.

19. CW7 Sri. Basavanagouda is examined as PW4. He deposed that accused are related to him. In June 2018 at about 8.30 am accused illegally trespassed into their house Srimathamma caught hold of hair of Siddamma manhandled her and assaulted her. They

also assaulted Megharaj and Kuberagouda using the club. Chandrappa assaulted Megharaj using the club. Chandrappa picked up a sickle and assaulted Kuberagouda. Narappa kicked him. He went to the main road and screamed. Then Mallikarjuan, Kubera, Santhosh came and pacified quarrel. They went to Harapanahalli hospital.

20. In the cross examination PW4 admitted that Kuberagouda is his younger uncle and CW5 is his father. He admitted there is also a counter complaint and dispute regarding the land and there is ill will between them and the accused persons. He admitted that on 17.06.2018 at about 8 pm they are quarreled with the accused persons. According to him there was a quarrel near the neem tree platform. He denied that they themselves assaulted accused due to ill will regarding property dispute and subsequently filed this case with an intention to compromise the case. He stated that he took treatment and he sustained internal injuries to his hands and body.

21. CW10 Sri. Snathosh one of the eye witness is examined as PW8. He deposed that on 17.06.2018 at about 8.30 there was a quarrel in front the house of Kuberagouda. Srimathamma had pulled Siddamma by

her hair and assaulted with hands and limbs. Chandrappa picked up club and assaulted over head of Siddamma. When Megharaj came to pacify even he was assaulted with the club. Narappa Kotresh Chandrappa Basavaraj assaulted Basavanagouda with a club. They assaulted Kuberagouda with a club on the left hand. When Ambika came to rescue Srimathama assaulted over her ear forcibly. They gave a life threat and abused in filthy language. He sent injured to the hospital.

22. In the cross examination PW8 stated that accused and the complainant are brothers. He does not know about the properties. Quarrel was with regard to properties. He denied knowledge that accused were assaulted by the complainant. He denied that there was no assault abuse in filthy language and no one used filthy language or gave life threat. PW8 has withstood the tenor of cross examination.

23. CW11 Sri.Banuprakash who treated the injured is examined as PW5. He deposed that on 17.06.2018 he examined the Kuberagouda in the background of assault and found there was laceration 2 X 2 cm over the left shoulder, abrasion over the left arm. He issued wound certificate marked as Ex.P.3. Such injuries can be

possibly be sustained if assaulted with a blunt object. Both are simple injuries. On the same day he examined Siddamma who had laceration over the fore head 2x2 cms He issued wound certificate as per Ex.P.4 and opined that injuries are simple. He also examined Megharaj S/o Naranagouda who had tenderness over the maxila. He issued wound certificate as per Ex.P.5. injuries were simple in nature. On the same day he examined Ambika W/o Megharaj and issued wound certificate marked as Ex.P.6. Ambika had abrasion over the left ear and abrasion over the neck. He opined that all these injuries can be possibly sustained if assaulted with a blunt object.

24. In the cross examination PW5 stated that such injuries can be sustained if a farmer falls on a rough surface. He admitted that two identification marks are compulsorily to be shown in the wound certificate. But he has not shown two identification marks. He admitted that he has not shown the shape time colour and MLC number in the wound certificates. He admitted that on the say of police he issued Ex.P.3 to 6. He admitted that injuries found on Megharaj were not visible to the naked eye. He also admitted that he has not mentioned colour shape and age of injuries in the wound certificate of

Siddamma. He stated that injured themselves came to the hospital.

25. Another independent witness Sri. Mallikarjunagouda is examined as PW6 and he deposed on 17.06.2018 he went near the Kubergouda's house at that time Chandrappa, Basavaraj, Kotreshappa and Srimathatmma were assaulting Siddamma. Chandrappa held a sickle and tried to assault Kubergouda. They pacified and asked them not to assault. Kuberagouda sustained injuries. Ambikas ear bled. Megharaj sustained internal injuries. Siddamma sustained injuries to the head. They gave threat that they would assault till she died. They sent the injured persons to the Harapanahalli government hospital. He Santhosh and Kuberappa pacified the quarrel. He identified MO 1 used for assault.

26. In the cross examination PW 6 stated that Kuberagouda is his brother. There are many other houses in between the houses of Kuberagouda. Incident took place about 8.30 am., He denied that due to the relationship he deposing falsely. He denied that accused had not given any life threat. He admitted that complainant and accused are having ill will with regard to property dispute. He denied that complainant

themselves assaulted the accused persons and accused had also given complaint against the complainant.

27. CW2 Sri. Thippeswamy is the investigation officer is examined as PW 7 He deposed that on 17.06.2018 at about 3 pm he received a complaint from the complainant and registered a case in crime number 54/2018 and on the same date he submitted FIR to the court as per Ex.7. On the next day he visited the spot and conducted panchanama as per Ex.P.2 in presence of CW2 and 3. He also gave given requisition to the court to record 164 statement of the complainant. Thereafter he recorded the statement of CW6 to 10. Accused has obtained anticipatory bail and released them on bail. He also received the wound certificate of CW4 to 6 and incorporated it into file. He completed investigation and filed charge sheet.

28. In the cross examination PW7 admitted that in the photograph Ex.D.1 material objects are not visible. He admitted that accused had given complaint 8p.m. but he was not the station house officer. He admitted that in the wound certificate there is mention about the incident having taken place at 8.30 am., and in Ex.P.12 time is shown as 8 am. He denied that wound certificates are concocted. He denied that he is seized the blouse

given in the police station only to incorporate Section 354 if IPC.

29. The pancha witness to the spot panchanama PW9 and 10 have spoken about drawing of panchanama. But PW9 in the cross examination stated that he does not know contents of panchanama. Interestingly PW10 stated that police seized two clubs and a sickle. But there is only one club seized by the police. Moreover in the photograph taken at the spot marked as Ex.D1 material objects are not visible. Hence very seizure of MO 1 to 3 is doubtful

30. Regarding the ingredients of 143, 147 non of the prosecution witnesses spoke about the formation of unlawful assembly and rioting. According to PW1 all persons held club. He was unable to state sequence of assault. PW1 stated that accused used stones to assault and it is not produced before the court. This is a improvement in the case of prosecution.

31. PW2 one of the victim turned partly hostile and only admitted suggestion regarding injuries to the ear of Ambika and Basavanagouda and also life threat. In the cross examination he stated that he sustained bleeding injuries and his cloths were blood stain but no such

blood stained cloth produced before the court. According to him he was assault over waist hands, limbs, head and back. But Ex.P.5 wound certificate of PW2 Megharaja shows tenderness over maxila. There is variance in the oral and medical evidence. Another victim Ambika PW3 only deposed that the accused assaulted. PW4 also deposed about the incident. PW4 Basavanagouda stated that even he sustained injury and took treatment. But no wound certificate of PW4 produced before the court. PW 1 to 4 are relatives and they are interested witnesses.

32. Regarding 323, 324 of IPC there is variance in the oral evidence and medical evidence regarding the seat of injury. Further according to the prosecution incident took place at 8.30 pm but wound certificate of Meghara shows that he had narrated before the doctor that incident took place at 8.00 am. Further in all the wound certificate there is no age of the injury mentioned. Moreover doctor had admitted that he issued wound certificates on the request of police. Doctor PW5 admitted that Megharaj sustained only one injury but he has shown there there were two injuries. PW6 stated that Siddamma sustained injuries to the head but wound certificate of Siddamma does not show injuries to the head.

33. The witnesses have deposed in a half hearted manner and there is also variance in their versions.

34. Regarding ingredients of 504 and 506 R/w Sec 149 of IPC none of the witnesses did not speak of abusing in filthy language and what exact insulting language was used by the accused. PW 1 to 4 being injured victims is not likely to forget the incident and if at all the incident had happened he would have definitely remembered about it. Thus the very evidence of PW 1 to 4 does not inspire confidence of the court.

35. Thus the shaky evidence of the complainant and interested witnesses sufficient to hold the accused guilty of the alleged offenses. In the instant case admittedly there is a civil dispute between the complainant and the accused persons and it is clearly admitted by the complainant and also other witnesses. It has also been elicited in evidence that there is a civil dispute between them regarding property. Admittedly there is a counter case.

36. This is a case and counter case arose out of a single incident. The 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 principles as to how the investigation in case and counter case to be conducted and concluded. For brevity the relevant portion of the judgment of the Honble High Court of Karnataka Bengaluru in CRL.P No. 6248 of 2024 in the case of Sri Gajendra K M Vs State b y police Sub inspector Masti police station decided on 21-08-2024 is extracted below:

37. “ 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 Others¹, 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.

38. 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 rational 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)

39. 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. 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, 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 aggressors or and 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”.

40. In the light of these mandates it is apparent that the instant case on hand and CC no 210-2018 arose out of a common incident took place on same date. The said CC no 210-2018 is also being simultaneous disposed of. Looking at the charge sheet it indicates both cases are not investigated by the same IO and there are different investigation officers.

41. In the referred judgment surpa the 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” .

42. But in this case, the investigating officers being different in both cases have not whispered about the existence of counter case, forget about producing the medical certificate of the injured/accused, unfortunately, no where in the charge sheet it is mentioned about any injury found on the accused. Hence, the very basic principles were not followed by the investigating agency.

43. However, looking at the merits of the case, even though prosecution able to examine victim /complainant and other material witnesses but they did not fully

supported the case of prosecution. But unfortunately the investigating officer has spoiled the whole case in the inception itself. Apart from that, as mandated by Hon'ble High Court the investigating officer did not whisper anything about the counter case and regarding the accused herein who sustained injuries out of this incident. Even on this count the prosecution case fails.

44. Regarding the allegations made under sec 323,324, 504, r/w 34 of IPC, the prosecution has not even proved one of the essential ingredients of each offences. It is a settled law that whenever the allegation under section 504 r/w 34 of IPC is made, the prosecution has to prove the ingredients of the said offences and that the criminal act was done in furtherance of the common intention or there was provocation. To attract the provisions of section 504 of IPC there must be intentional insult and it must be made with an intent to provoke breach of peace. The prosecution must also prove that such a provocation is made to the complainant, which made him to break the public peace or to commit any other offence. All these facts are missing in the instant case. Thus, in this case the prosecution has been unsuccessful in discharging its burden and hence the case tilts in favour of the accused. The accused are

entitled to avail the benefit under the concept of benefit of doubt. Hence I answer the point no 1 to 9 in the Negative.

45. **Point No. 10 :-** In the result and for the foregoing reasons, I proceed to pass the following :

ORDER

Exercising the powers conferred under Section 248 (1) of Cr.P.C., the accused no 1,2, 4 and 5 are acquitted from the offences punishable under sections 143, 147, 448, 323, 324, 354,504 and 506 R/w Sec 149 of IPC.,

Bail bond of accused No.1,2, 4 and 5 and surety bond taken at the time of granting bail is hereby extended for the purposes of section 437A of Cr.P.C for a period of six months.

M.O. No.2 is ordered to be confiscated to the state.

M.O. No.1 and 3 being worthless is ordered to be destroyed after appeal period.

(Dictated to the stenographer, transcribed and computerized by her, revised, corrected, signed and then pronounced by me in the open court on this the 1st day of August 2026)

(Smt.Usha Rani R.)
Senior Civil Judge & JMFC.,
Harapanahalli.

ANNEXURE

1. Witnesses examined on behalf of the Prosecution:

PW 1	:	Sri. Kuberagouda
PW 2	:	Sri. Megharaj
PW 3	:	Smt.Ambika
PW 4	:	Sri.Basavanagouda
PW 5	:	Dr. Banuprasad
PW 6	:	Sri. Mallikarjunagouda
PW 7	:	Sri.Thippeswamy
PW 8	:	Sri.Santhosh
PW 9	:	Sri. Manjunatha
PW 10	:	Sri. Nagaraja

2. Documents exhibited on behalf of the Prosecution:

Ex.P 1	:	Complaint
Ex.P 1a,b	:	Signature
Ex.P 2	:	Spot mahazar
Ex.P 2a to d:	:	Signature
Ex.P 3	:	Wound certificate
Ex.P 3a,b	:	Signature
Ex.P 4	:	Wound certificate
Ex.P 4a,b	:	Signatures
Ex.P 5	:	Wound certificate
Ex.P 5a,b	:	Signatures
Ex.P 6	:	Wound certificate
Ex.P 6a,b	:	Signatures
Ex.P 7	:	FIR
Ex.P 7a	:	Signature

3. Material objects on behalf of the Prosecution:

M.O. 1	:	One club
M.O. 2	:	Sickle
M.O 3	:	Torn blouse

4. **Witnesses examined on behalf of the Accused:**
.....NIL.....

5. **Documents marked on behalf of the Accused:**

Ex D 1: Photograph

(Smt.Usha Rani R.)
Senior Civil Judge & JMFC.,
Harapanahalli.