

KAVN500017912023



**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 1<sup>st</sup> day of April, 2026.

**CRIMINAL CASE No.1244-2023**

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

// Vs. //

Accused: 1. Sri. Kannavara Mahanthesh S/o  
Manjappa, aged about 28 years, Driver,  
R/o Duggavathi village, Harapanahalli  
taluk

2. Sri. Haluvagilu Basavaraja S/o  
Haluvagilu Sangappa, aged about 28  
years, R/o Duggavathi village,  
Harapanahalli taluk, Vijayanagara  
district.

3. Sri. Pujar Kariyappa @ Pujar Shekaraj  
aged about 27 years, R/o Duggavathi  
villae, Harapanahalli taluk.

(By Sri. R.S.S., /A.B.G., Advocate.)

Date of Commission of offence : 15.02.2023  
Date of Report of offence : 16.02.2023  
Date of Arrest of the Accused : Accused is in JC  
Name of the Complainant : Sri.Siddanna  
Date of Recording of Evidence : 23.01.2025  
Date of Closing of Evidence : 07.02.2026  
Offences Complained of : U/s 283, 504, 323, 332, 353  
of IPC.,  
Opinion of the Judge/Result : Accused found not guilty/  
acquitted

### **J U D G M E N T**

The instant prosecution has been launched by Haluvagilu Police against the accused No.1 to 3 alleging the offences punishable U/s 283, 504, 323, 332, 353 of IPC.,

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

The complainant and CW 6 who were the officials of the KSRTC bus had boarded passengers in the KSRTC bus and they were proceeding from Duggavati bus stop on 15-02-2023 at about 6.40. The KSRTC bus No. KA-17/F-1662 was proceeding from Mantralaya towards Harihara. After crossing Telgi, the accused No.1 and 2 came from behind the KSRTC bus on motorcycles and

abused the complainant in filthy language. Subsequently when the bus went little ahead, again the accused overtook the bus on their bike and stopped the KSRTC bus and abused the complainant in filthy language so as to cause provoke breach of peace. When the complainant explained that he was properly driving the bus, accused No.1 and 2 have caught hold the collar of the driver of the bus i.e., the complainant by pulling him out of the door and brought him down the bus and slapped on the cheek of the complainant. Accused No.2 kicked the complainant, whereas accused No. 3 abused him in filthy language. Accused have fisted on the face of the complainant and caused severe pain. Complainant fell down and he was rescued and treated by CW 6 and 8. Therefore, accused No.1 to 3 are alleged to have restrained the public work of the complainant and CW 6 and therefore alleged to have committed offences punishable Under Sections 283, 504, 323, 332, 353 of IPC.,

3. After investigation, the Halavagalu police have filed the charge sheet against the accused No.1 to 3 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. The accused persons were heard before framing of the charge and this court opined that there were sufficient grounds to proceed in this case. Later the case was posted for recording evidence of prosecution.

4. The prosecution in order to prove its case against the accused has cited the 14 witnesses and among them examined PW1 to PW.11 and got marked document as Ex.P. 1 to 12. CW 10 to 12 are given up by the prosecution. After completion of prosecution evidence, the incriminating evidence appearing against the accused persons was read over and explained to them as required U/Sec. 313 of Cr.P.C. Accused persons 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 arises for determination is:

1. *Whether the prosecution proves beyond all reasonable doubts that on 15-02-2023 at about 6.40. when the KSRTC bus No.KA17F1662 was proceeding from*

*Mantralaya to Harihara after crossing Telgi, the accused No.1 and 2 came from behind the KSRTC bus on motorcycles and abused the complainant in filthy language, and again when the bus went little ahead, again the accused overtook the bus on their bike and stopped the KSRTC bus and abused the complainant in filthy language so as to cause provoke breach of peace so as to provoke breach of peace and thereby committed offence under section 504 of IPC?*

2. *Whether the prosecution proves beyond all reasonable doubts that at the above stated date, time and place, the accused No.1 and 2 caught hold the collar of the driver of the bus by pulling out him from the door and took him down the bus and slapped on the cheek of the complainant restrained the complainant from performing his official duty and thereby committed offence punishable under section 332, 353 and 283 of IPC?*

3. *Whether the prosecution proves beyond all reasonable doubts that the accused have fisted on the face of the complainant and caused simple injuries and thereby committed offence under section 323 of IPC?*

4. *What order or sentence?*

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

Point no 1 to 3 : In the negative

Point no 4 : As per the final order for the following:

### **REASONS**

8. **Point no 1 to 3** : These points are taken together for common consideration to avoid repetition of facts and evidence as these points are inter related. In order to prove the offence punishable u/s 353 the prosecution has to prove that the accused has assaulted or used criminal force to Pw-1, who was a public servant, in execution of his duty as public servant, with intent to prevent or deter that person from discharging his duty as such public servant. The first essential ingredient to prove this offence is that the person assaulted or on whom criminal force was used is a public servant within the meaning of section 21 of IPC. The section 21 of IPC has defined a public servant, as any person under the descriptions mention under the twelve provisions of the said section. The relevant provision for this case is the Twelfth provision. Under this provision every person in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government or every person in the service or

pay of a local authority, corporation established by or under the central, provisional or state Act or a government company as defined u/s 617 of Companies Act, is held to be a public servant.

8. In the case on hand the complainant is an employee of K.S.R.T.C bus and such he is under the pay of the government and thus a Government servant. The defence has not disputed the fact that the complainant is the public servant. They only dispute any incident having taken place as per the prosecution story, wherein the complainant was assaulted, abused and threatened. The fact that the complainant is a public servant is established from the oral evidence of the witnesses and evidence on record is sufficient to prove that the complainant was discharging his duties as a public servant on the date of accident.

9. To constitute an offence u/s 353 IPC not only the fact that the victim is a public servant has to be proved, but also the fact that at the time of the incident, the assault or use of criminal force must be made to the public servant while he was executing his duty as public servant. The defence has not disputed the fact that on the date of the incident the complainant was discharging his duties as a public servant.

10. The next aspect to be considered is whether the accused has used criminal force or assault on PW-1. Force is defined u/s 349 IPC. Criminal force is defined u/s 350 IPC. Under this section whoever intentionally uses force to any person, without that person's consent, in order to committing of any offence, or intending by the use of such force, to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other. The force becomes criminal when it is used without consent and in order to the committing of an offence or when it is intentionally used to cause injury, fear or annoyance to another to whom the force is used.

11. Assault is defined u/s 351 IPC. Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. To constitute assault two things are essential, namely making of any gesture or preparation by a person in the presence of another and the intention or knowledge of likelihood that such gesture or preparation

will cause the person present to apprehend that the person making it is about to use criminal force to him.

12. To prove the offence punishable u/s 323 IPC, the prosecution is required to prove that the accused has voluntarily caused hurt. To prove the offence punishable u/s 504 IPC, the prosecution is required to prove that the accused has insulted Pw-1 in abusive language and thereby gave provocation to him, intending or knowing that such provocation would lead him to commit an offence or break public peace.

13. The prosecution, in order to prove about the incident has relied on the evidence of PW 1 complainant and also the victim Sri.Siddhanna w/o Basanna who has deposed that on 15.02.2023 he was proceeding as a driver on the KSRTC bus bearing registration No.KA 17 1662 from Manthralaya to Harihara. On the route they proceeded from Harappanahalli and at that time Mahanthesh and Sangappa came on a motorcycle and overtook their bus and abused him. Since there was trouble caused to the passengers he stated that he shall park the bus to the side and they shall go to the police station. But the accused did not stop the bike and went ahead of the bus in a crisscross manner. At Duggavati bus stop they restrained the bus and abused him. They

caught his collar and assaulted over his cheek. He lost consciousness and fell. Conductor and passengers gave water to drink. Since there was a Kottur fair there was heavy traffic and therefore, he came to Harihara. At Harihara he sustained severe pain and thereafter he went to Harappanahalli depot and went to Government hospital at Harappanahalli. Subsequently, on the next day, he went to Halavagulu and thereafter went to police station and lodged a complaint. Complaint is marked as Ex.P1. Subsequently, police came to the spot i.e. Dugavati bus stop and took a photograph, drew a panchanama as per Ex.P2 and prepared sketch as per Ex.P3. They seized the bike used for assault under the panchanama marked as Ex.P4.

14. This witness is treated as partly hostile and subjected to cross-examination wherein he admitted that accused restrained him from performing his Government work and they assaulted him over his hands, legs and over his cheek. He admitted about drawing of panchnama in the presence of CW4 and 5 and that bike No. KA-35/S-1160 was seized as per Ex.P4.

15. In the cross-examination PW1 stated that he gave complaint in the Telagi police station. Bus came from Mantralaya to Harihara. He himself was the driver

of the bus. He admitted that he did not file complaint on the same day. He stated that he sustained chest pain and headache. He took treatment at Harapanahalli government hospital. But there was no MLC registered. He stated that he gave complaint in the Haluvagili government hospital. PW1 admitted that bus was too much crowded. He denied that when accused No. 1 and 2 came to board the bus, he did not stop the bus and therefore bus was stopped by the villagers. He admitted that he has not stopped the bus near the bus stop but went little ahead and stopped the bus. He denied that since the villagers asked them to stop the bus at the spot he filed this case.

16. Independent pancha witness to the spot Panchnama CW2 Sri. Dasara Shivaraja S/o Manjappa is examined as PW2. He only admitted his signature on the Panchnama which is marked as Ex.P2 and sketch marked as Ex.P3. Photograph was taken but he does not know reason. This witness was treated as hostile and subjected to cross examination wherein he denied participating in the Panchnama. The cross examination is a futile exercise.

17. CW5 Sri. Nagaraja S/o Sangappa another vehicle seizure Panchnama witness who examined as

PW3. He deposed that Police drew a Panchanama as per Ex.P4 but he does not know its contents. This witness is also treated as hostile and subjected to cross examination wherein he denied contents of seizure Panchnama marked as Ex.P4. The cross examination is a futile exercise.

18. Another independent witness to the spot Panchnama CW3 Sri. Budanuru Anjinappa S/o Pakkirppa is examined as PW4. He only admitted his signature on the Panchanama which is marked as Ex.P2 and sketch marked as Ex.P3. Photograph was taken but he does not know why photograph was taken. His witness was treated as hostile and subjected to cross examination wherein he denied participating in the Panchanama. The cross examination is a futile exercise.

19. Independent Mahajar witness to the vehicle seizure Panchnama, CW4 Sri.Basavaraja S/o Cheeranahalli Pakkirappa examined as PW5. He deposed that Police drew a Panchanama as per Ex.P4 but he does not know its contents. This witness is also treated as hostile and subjected to cross examination wherein he denied contents of seizure Panchanama marked as Ex.P4. The cross examination is a futile exercise.

20. Eye witness CW6 Sri.Lohitha S/o Basanna Gogi is the conductor of the bus examined as PW6. He deposed that on 15.02.2023 he was proceeding in the bus and Siddappa was the driver. Public quarreled with the driver and bus was crowded. He heard noise and went in front and there was quarrel. The driver was sleeping down He stated that he does not know who assaulted the driver. He stated that two persons came on a motorcycle and took the bike across the bus and quarreled and used filthy language. He stated that he does not know about the incident.

21. This witness is treated as partly hostile and subjected to cross examination by the learned APP, wherein he admitted that accused obstructed the public work of the complainant and driver lost consciousness. He admitted the suggestions.

22. In the cross examination by the accused PW6 stated that he accompanied Siddappa and Haleshappa at the time of filing of the complaint. He admitted that he takes the bus in the same route. He is the conductor of the bus and he denied that due to rush they did not stop the bus at Duggavati and therefore accused questioned the same.

23. CW7 Sri.Halesha S/o Ninganagouda is another witness who is the KSRTC constable who is examined as PW7. He deposed that he learnt about the incident and assaulted by some public persons on the driver of the bus over telephone. Thereafter he went to the police station along with the complainant and lodged a complaint. He has written the complaint marked as Ex.P.1.

24. In the cross examination PW7 stated that he does not know personally about the incident.

25. An eye witness CW9 K.Kenchappa S/o Manjanna examined is examined as PW.8. He deposed that he does not know the accused and he does not know about the incident. He denied having seen the incident. This witness is treated as hostile and subjected to cross examination wherein he denied all the suggestions made by the learned APP. Even he denied his 161 statement marked as Ex.P.5. His cross examination has been a futile exercise.

26. Another eye witness CW.8 Manjunatha s/o Basavarajappa examined is examined as PW.11 He deposed that he knows the accused and he does not know about the incident. He denied having seen the

incident. This witness is treated as hostile and subjected to cross examination wherein he denied all the suggestions made by the learned APP. Even he denied his 161 statement marked as Ex.P.12. His cross examination has been a futile exercise.

27. The investigating officer CW13 Sri.Ningappa S/o Marthandappa is examined as PW9. He deposed that the complainant came and lodged complaint on 16.02.2023. He received it and registered a case in crime No. 10/2023 and submitted FIR to the court as per Ex.P.5. Thereafter he secured CW2 and 3 and drew panchanama at the spot. On 16.02.2023 he arrested accused No.3 and produced him before the court. Accused No. 1 and 2 appeared taking anticipatory bail and he arrested them and released them on bail. He handed over further case file to CW14 for further investigation.

28. In the cross examination he denied that he drew false panchanama.

29. Another investigation officer CW14 Sri.Gururaj T S/o Thippeswamy is examined as PW10. He deposed that he received case file from CW13 and conducted further investigation. He seized the vehicle involved in the

incident and incorporated it into PF No.34/2023. Seizure panchanama is marked as Ex.P.4. Thereafter he received wound certificate of the complainant as per Ex.P.6 and recorded statement of CW6 and 7, 8 and 9. He received 65 B certificate from CW11 as per Ex.P.7. He also received duty certificate of the complainant as per Ex.P.8 to 11. He completed investigation and filed charge sheet against the accused persons.

30. In the cross examination he denied that on the pressure of the KSRTC staff he has registered a false charge sheet.

31. Independent pancha witnesses PW2, PW3, PW4 and PW5 turned hostile. Eye witnesses PW.8, PW.11 also turned hostile and their cross examination has been a futile exercise.

32. The investigating officer PW9 and PW.10 spoke about investigating aspects.

33. The only evidence that is in support of prosecution, is that of PW 1 complainant, PW.6 and PW.7. PW.6 Sri.Lohitha S/o Basanna Gogi is the conductor of the bus did not narrate about the incident and he deposed that he does not know who assaulted the

driver. However, in the cross examination admitted that accused obstructed the public work of the complainant and driver lost consciousness.

34. PW.7 Sri.Halesha S/o Ninganagouda deposed that he learnt about the incident and assaulted by some public persons on the driver of the bus over telephone. He is not a eye witness.

35. Thus the only evidence remains is that of Sri.Siddhanna w/o Basanna the complainant

36. PW.1 has deposed half heartedly and did not narrate about the incident in clear terms. There is delay in filing the complainant. PW.1 is stated to be the victim. But, he has not at all spoken of the incident as narrated in the complainant. Ex.P. 6 wound certificate shows that there was pain tenderness over the right side of chest. But, the complainant did not narrate about pain or injuries sustained by him. Interestingly the complainant himself was treated as partly hostile and subjected to cross-examination wherein he admitted that accused restrained him from performing his Government work and they assaulted him over his hands, legs and over his cheek. Thus, his evidence is shaky and cannot be the sole basis for convicting the accused.

37. It is proved that complainant is the public servant on the date of incident discharging his public duty. But admittedly that complainant himself has not spoken anything so as to conclude that the accused had intentionally obstructed the complainant performing his official duty. There is no restraint, assault or any act done by the accused to prevent the complainant from doing his official work. Interestingly the complainant who is the victim in this case himself has turned party hostile and he only admitted the suggestions made by the prosecution in the cross examination. The complainant is the victim and he could normally not forget. The complainant ought to have narrated the incident in the chronological order. It is most unlikely that the victim would forgot what happened on the fateful day. In this case complainant himself has turned partly hostile and he admitted the suggestions made in the cross examination by the learned APP which casts doubt regarding his credibility.

38. Further the complainant did not narrate what exact intentional insulting words were used by the accused to abuse him. None of the eye witnesses deposed about ingredients of the alleged offences.

39. None of the prosecution witnesses have not spoken what exact words were used to caused intentional breach of peace. Ingredients of Section 504 was not at all spoken by the witnesses of the prosecution.

40. The prosecution evidence is not sufficient to hold that the accused caused intentional insult to the complainant and restrained him from during official work. The evidence of prosecution witnesses is shaky and half hearted and does not conclusively point towards the guilt of the accused. Relying upon the shaky evidence of the complainant and also the prosecution witnesses a conviction cannot be based. Therefore viewed from any angle the prosecution evidence is not conclusively pointing out the towards the guilt of the accused and there is definitely scope for benefit of doubt. Due to half hearted testimony of the complainant himself benefit of doubt goes in favor of the accused. Hence, this court is inclined to answer point No.1 to 3 in the negative.

41. **Point no 4** : In view of the above discussions, I proceed to pass the following:

**ORDER**

Exercising the powers conferred under Section 248(1) of Cr.P.C., the accused No.1 to 3 are acquitted from the offences punishable under section 283, 504, 323, 332 and 353 of IPC.

Bail bond of accused person 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.

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

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

### **ANNEXURE**

#### **1. Witnesses examined on behalf of the Prosecution:**

PW 1	:	Sri. Siddanna
PW 2	:	Sri. Dasara Shivaraja
PW 3	:	Sri. Nagaraja
PW 4	:	Sri. Anjinappa
PW 5	:	Sri. Basavaraja
PW 6	:	Sri. Lohitha
PW 7	:	Sri. Halesha
PW 8	:	Sri.Kenchappa
PW 9	:	Sri. Ningappa
PW 10	:	Sri. Gururaja

PW 11 : Sri. Manjunatha

**2. Documents exhibited on behalf of the Prosecution:**

Ex.P 1	:	Complaint
Ex.P 1a toc	:	Signature
Ex.P 2	:	Spot mahazar
Ex.P 2a to d	:	Signatures
Ex.P 3	:	Sketch
Ex.P 3 a to d	:	Signatures
Ex.P 4	:	Seizer Panchanama
Ex.P 4 a to d	:	Signatures
Ex.P 5	:	Statement of CW9
Ex.P 6	:	Wound certificate
Ex.P 7	:	65 B certificate
Ex.P 7 a	:	Signature
Ex.P 8	:	Duty certificate
Ex.P 9	:	Appointment Order
Ex.P 10	:	Salary Certificate
Ex.P 11	:	Trip sheet
Ex.P 12	:	Statement of CW8

**3. Material objects on behalf of the Prosecution:**

.....NIL.....

**4. Witnesses examined and documents marked on behalf of the Accused:**

.....NIL.....

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