

KAVP500000642020



Presented on : 17-01-2020
Registered on : 17-01-2020
Decided on : 05-06-2024
Duration : 06 Yrs., 04 Months 20 days

**IN THE COURT OF HON'BLE I ADDL. SENIOR CIVIL
JUDGE AND JMFC, SINDAGI
AT: SINDAGI.**

Present – Shri. Abdul Rahiman .A. Mulla
B.A.L.,LL.B.(Hon's)

**I Addl. Sr. Civil Judge & JMFC,
Sindagi.**

Dated this 5th day of June, 2026

C.C.No.24/2020

Complainant:

The State by PSI, Almel P.S..

(By learned APP)

// Versus //

Accused :

1. Sayibanna S/o. Siddappa Naikodi,
Age-58 yrs.,
2. Nagappa S/o. Sayibanna Naikodi
Age-32 yrs.,
3. Bhimanna S/o.Sayibanna Naikodi
Age-30 yrs.,
4. Ashok S/o. Sayibanna Naikodi,
Age-28 yrs.,

5. Laxmibai W/o. Sayibanna Naikodi,
Age-55 yrs.,
6. Renawwa W/o. Nagappa Naikodi,
Age-28 yrs.,
7. Kavya W/o. Bhimanna Naikodi,
Age-25 yrs.,

All are R/o. Babaleshwar, Tq : Sindagi

(R/by Sri.R.M.C, Advocate)

Date of commission of offence	18-05-2019
Date of report of offence	18-05-2019
Date of arrest of accused No.2 & 4	21-05-2019
Date of release of accused No.2 & 4	27-05-2019
Period of custody of accused	7 days
Offences complained of	U/Sec.143, 147, 148, 323, 324, 326, 504 and 506 R/W.Sec.149 of IPC.
Date of commencement of evidence	20-09-2025
Date of closing of evidence	20-02-2026
Opinion of judge	Acquitted

J U D G M E N T

1. The Almel Police have filed charge sheet
against the accused for the offences punishable U/Sec.

143, 147, 148, 323, 324, 326, 504, 506 R/W. Sec.149 of IPC.

The brief facts of prosecution case is as under :

2. That on 18.05.2019 at 6.00 A.M in the open land of Halekar situated next to Babaleshwar lake in Babaleshwar village, there was boundary dispute between accused and complainant with respect to landed property and such being the case on the above said date when the complainant was installing T.C. pole in her field with the help of CW.7, accused No.1 objected for the same. When CW.4 and CW.5 tried to pacify the same, all the accused by forming unlawful assembly came to the spot with material objects and quarreled with CW.4 and CW.5 and accused No.1 by snatching the sickle from accused No.5 pushed CW.5 to the ground and assaulted to the head and caused simple injuries. Further accused No.3 and 4 assaulted CW.4 with club and accused No.4 pulled the saree of complainant with an intention to outrage her modesty. Accused No.2 assaulted with club to the waist of

complainant and caused internal injuries. Accused No.3 assaulted CW.6 with club and caused simple injury. Later all the accused threatened to kill complainant along with CW.4 to CW.6 with dire consequences and on the basis of complaint given by the complainant, Almel Police have registered crime in their P.S. Cr.No.44/2019 against accused for the offences punishable U/Sec. 143, 147, 148, 323, 324, 325, 354, 504, 506 R/W.Sec.149 of IPC. Thereafter the investigating officer after conducting panchanama, after seizure of material objects, recording the statement of witnesses and after completion of investigation, filed charge sheet against the accused for the offences punishable U/Sec.143, 147, 148, 323, 324, 326, 504, 506 R/W.Sec.149 of IPC.

3. The accused appeared before the court and they were released on bail. Prosecution papers as per Sec.207 of Cr.P.C was furnished to accused. After hearing before charge, charge was framed by my

learned predecessor-in-office and read over to accused. They pleaded not guilty and claimed to be tried. Hence, case was posted for prosecution side evidence.

4. The prosecution in order to prove its case has given the evidence of witnesses as P.W.1 to P.W.10 and got marked documents at Ex.P.1 to Ex.P.9 and material objects at M.O.No.1 to M.O.No.4. The statement of accused as contemplated u/Sec.313 of Cr.P.C was recorded and same was denied by them. Accused have chosen not to lead any evidence. Thereafter, accused have complied with Sec.437(A) of Cr.P.C and furnished surety to the satisfaction of this court.

5. Heard. Perused the records.

6. The following points that arise for my consideration are as follows:

1. Whether prosecution beyond all reasonable doubt has proved that, on 18.05.2019 at 6.00 A.M in the open land of Halekar situated in Babaleshwar village, when complainant was installing T.C. pole in her field, all the accused in prosecution of common object formed unlawful assembly

and thereby accused have committed offence punishable u/Sec.143 of IPC?

2. Whether prosecution beyond all reasonable doubt has proved that on the above said date, time and place all the accused being members of unlawful assembly in prosecution of common object rioted and thereby accused have committed offence punishable u/Sec.147 of I.P.C. ?
3. Whether prosecution beyond all reasonable doubt has proved that on the above said date, time and place all the accused being members of unlawful assembly in prosecution of common object rioted with club and handle of sickle and thereby accused have committed offence punishable u/Sec.148 of I.P.C. ?
4. Whether prosecution beyond all reasonable doubt has proved that, on the above said date, time and place all the accused being members of unlawful assembly in prosecution of common object, accused No.4 pushed the complainant to the ground and caused simple injuries and thereby accused have committed offence punishable u/Sec.323 R/W. Sec.149 of I.P.C. ?
5. Whether prosecution beyond all reasonable doubt has proved that, on the above said date time and place, all the accused by forming unlawful assembly in prosecution of common object accused No.1 assaulted CW.4 and complainant with handle of sickle to the left hand, accused No.3 assaulted CW.6 with club and caused severe injuries and thereby accused have committed

offence punishable U/Sec.324 R/W.Sec.149 of I.P.C.?

6. Whether prosecution beyond all reasonable doubt has proved that, on the above said date time and place, all the accused by forming unlawful assembly in prosecution of common object, accused No.3 and 4 assaulted CW.4 with club on hands and caused severe injuries and thereby accused have committed offence punishable U/Sec.326 R/W.Sec.149 of I.P.C.?
7. Whether prosecution beyond all reasonable doubt has proved that, on the above said date, time and place all the accused being members of unlawful assembly in prosecution of common object, all the accused abused the complainant in filthy language and thereby accused have committed offence punishable u/Sec.504 R/W.Sec.149 of I.P.C. ?
8. Whether prosecution beyond all reasonable doubt has proved that, on the above said date, time and place all the accused being members of unlawful assembly in prosecution of common object, all the accused threatened to kill the complainant along with CW.4 to CW.6 with dire consequences and thereby accused have committed offence punishable u/Sec.506 R/W. Sec.149 of I.P.C. ?

9. What order ?

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

Point No.1 : In the Negative

Point No.2 : In the Negative

Point No.3 : In the Negative

Point No.4 : In the Negative

Point No.5 : In the Negative

Point No.6 : In the Negative

Point No.7 : In the Negative

Point No.8 : In the Negative

Point No.9 : As per final order

.....for the following:

REASONS

8. **Points No.1 to 8** : As these points are interlinked with each other and as the facts and circumstances involved are similar, they are taken together for discussion to avoid repetition of facts.

9. The prosecution in order to prove its case has given the evidence of complainant i.e. P.W.1, P.W.2 and PW.10 are injured, PW.3 is mahazar witness, P.W.5 is eye witness, PW.4 and PW.8 are independent witnesses, PW.7 is doctor and PW.6 and PW.9 are I.O.

10. P.W.1 is the complainant. She has given her evidence deposing that, she along with accused reside

in Babaleshwar village and land of accused is situated next to her land and about 4 years back when she was installing T.C in her field along with help of CW.7, accused No.6 and remaining accused came and quarreled with her. At the same time, CW.4 to CW.6 were present along with her, wherein accused assaulted them. Accused No.4 assaulted with club to her waist and body, CW.4 was assaulted by accused No.1 on his hands, accused No.2 assaulted with handle of sickle and accused No.3 snatched the mobile of CW.6 and damaged it.

11. As this witness did not support the prosecution case in full, she was treated as hostile by the prosecution and upon cross-examination by prosecution, she admitted all the suggestions which were made to her. Though those suggestions do support the case of prosecution, but same is not stated by this witness in her examination-in-chief, which amounts to contradiction.

12. She was cross-examined by learned counsel for accused, wherein she stated that, her husband was not present in the village when quarrel took place. She further stated that, on the same day at 9.00 P.M she filed complaint against the accused. She further stated that, after lapse of two days police visited the spot and denied that, she along with her father have suffered injuries by falling from tom tom auto and denied rest suggestions which were made to her.

13. Hence, on perusal of evidence given by this witness, she being complainant, it appears that, there is ill-will between complainant and accused with respect to landed property which might have led in filing the complaint. In the absence of corroborative evidence of other independent witnesses, the sole evidence given by this witness cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

14. PW.2 is injured. She has given her evidence deposing that, about 4 years back while installing T.C

in their land, quarrel took place between them and accused, wherein accused No.3 assaulted CW.3 and CW.4 and accused No.1 assaulted her with handle of sickle on her head, accused No.2 assaulted CW.4 with club on his hands and accused No.3 assaulted CW.6 with club and caused simple injuries.

15. As this witness did not support the prosecution case in full, she was treated as hostile by the prosecution and upon cross-examination by prosecution, she admitted all the suggestions which were made to her. Though those suggestions do support the case of prosecution, but same is not stated by this witness in her examination-in-chief, which amounts to contradiction.

16. She was cross-examined by learned counsel for accused, wherein she admitted that, accused stay in farm house and stated that, after the quarrel her son came to the village at 8.00 A.M and denied rest suggestions which were made to her.

17. Hence, on perusal of evidence given by this witness, her evidence is contrary to the evidence given by complainant and to the averments of the complaint with respect to alleged assault made by accused. In the absence of corroborative evidence of other witnesses, the evidence given by this witness alone cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

18. PW.3 is spot panchanama. He has given his evidence deposing that, about 5 years back at 5.30 P.M police had called him near lake of Babaleshwar and conducted panchanama with respect to quarrel between accused, CW.1 and CW.4. He further deposed about seizure of M.O.No.1 to M.O.No.4 in his presence and identified his signature on spot panchanama at Ex.P3 (a).

19. He was cross-examined by learned counsel for accused, wherein he stated that, police did not call him for conduct of panchanama and he has no

personal knowledge about the contents of panchanama and denied rest suggestions which were made to him.

20. Hence, on perusal of evidence given by this witness, he has given his evidence in contrary to the case of prosecution by stating that, he has no knowledge about the contents of panchanama. Hence, the evidence given by this witness cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

21. PW.4 is independent witness. He has given his evidence deposing that, on 18.05.2019 at 6.00 A.M he went to Babaleshwar and returned at 8.00 A.M, wherein accused had assaulted CW.1, CW.4 to CW.6 and he has taken the injured to the hospital. He further stated that, he has given complaint about the incident and identified M.O.No.1 to M.O.No.4 placed before the court.

22. As this witness did not support the prosecution case in full, he was treated as hostile by the prosecution and upon cross-examination by

prosecution, he admitted all the suggestions which were made to him. Though those suggestions do support the case of prosecution, but same is not stated by this witness in his examination-in-chief, which amounts to contradiction.

23. He was cross-examined by learned counsel for accused, wherein he stated that, on reaching the spot, none of the accused were present and stated that, complaint is given by his wife. He further stated that, complainant informed him that, she was assaulted by accused No.4 and denied rest suggestions which were made to him.

24. Hence, on perusal of evidence given by this witness, he being husband of complainant, he has given his evidence about giving complaint about the incident, but during cross-examination stated that, his wife has given the complaint. Moreover this witness was not present at the spot during the commission of alleged incident. This witness is hearsay witness, he has not seen which of the accused has assaulted

whom. Under such circumstances, the evidence given by this witness cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

25. PW.5 is eye witness. He has given his evidence deposing that, complainant was installing T.C in her field in the year-2019, when accused quarreled with her, wherein accused No.1 assaulted CW.5 with club on head, accused No.1 assaulted CW.1 with club. Thereafter he along with CW.7 came and pacified the quarrel. He further identified M.O.No.1 to M.O.No.4 placed before the court.

26. As this witness did not support the prosecution case in full, he was treated as hostile by the prosecution and upon cross-examination by prosecution, he admitted all the suggestions which were made to him. Though suggestions do support the case of prosecution, but same is not stated by this witness in his examination-in-chief, which amounts to contradiction.

27. He was cross-examined by learned counsel for accused, wherein he denied that, he was reported to be dead on 06.01.2008. He further stated that, complainant had reached the land at 8.00 A.M, wherein accused No.1 came at 9.00 A.M. He further stated that, he cannot say which of the accused assaulted whom and denied rest suggestions which were made to him.

28. Hence, on perusal of evidence given by this witness, though this witness supported the case of prosecution in his evidence, but during cross-examination, he has given his evidence altogether in different manner. Hence, the presence of this witness at the spot during the commission of alleged incident appears to be doubtful one and his evidence cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

29. PW.7 is doctor. He has given his evidence deposing that, on 18.05.2019 he has treated CW.1, CW.4 and CW.6 and deposed that, said injuries may

occur due to assault from M.O.No.1 to M.O.No.4. He further identified his signatures on wound certificates.

30. He was cross-examined by learned counsel for accused, wherein he stated that, if a person falls from bike, injuries mentioned in the wound certificates may occur and denied rest suggestions which were made to him.

31. Hence, on perusal of evidence given by this witness, his evidence can only be seen to the extent of he treating the injured, which nowhere shows the commission of alleged offences by accused. Hence, the evidence given by this witness cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

32. PW.8 is another independent witness. He has given his evidence deposing that, about four years back quarrel took place between CW.4 and accused with respect to landed property and he has advised accused and CW.4 and stated that, he was not present at the spot at the time of incident.

33. As this witness did not support the prosecution case in full, he was treated as hostile by the prosecution and upon cross-examination by prosecution, he denied all the suggestions which were made to him. His statement was marked at Ex.P.8.

34. Hence, on perusal of evidence given by this witness, this witness was examined in order to give his evidence in support of case of prosecution, but he has given his evidence in contrary to the case put forth by prosecution. Hence, the evidence given by this witness cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

35. PW.10 is injured. He has given his evidence deposing that, when he was working in his land in the year-2019 in between 8.00 A.M to 11.00 A.M. all the accused came and quarreled with CW.7, who was installing T.C. pole, wherein accused assaulted him, CW.1, CW.5 with club, handle of sickle and stone. The accused No.3 and 4 assaulted him and later he has

taken treatment in Almel hospital. He further identified M.O.No.1 to M.O.No.4 placed before the court.

36. He was cross-examined by learned counsel for accused, wherein he stated that, when CW.7 was installing T.C.pole in the land, he along with CW.1, 5 and 10 were in their house. He further stated that, quarrel took place at 9.30 A.M, wherein his father came to the spot at 11.00 A.M and denied rest suggestions which were made to him.

37. Hence, on perusal of evidence given by this witness, his evidence is not corroborative to the evidence given by complainant and other injured persons with respect to commission of offence. Hence, the evidence given by this witness cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

38. PW.9 is I.O. He has given his evidence deposing that, he received complaint from complainant registered the case and conducted spot panchanama in presences of witnesses. He further recorded

statements of CW.4 to CW.10 and handed over case file to CW.14 for further investigation.

39. He was cross-examined by learned counsel for accused, wherein he denied all the suggestions which were made him. Hence, on perusal of evidence given by this witness, he being partial I.O., he has given his evidence about conduct of partial investigation in this case, which is his official duty. In the absence of corroborative evidence of other independent witnesses, the sole evidence given by this witness cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

40. PW.6 is another I.O. He has given his evidence deposing that, he received wound certificates of CW.1, 4 to 6 and after completion of investigation he has filed charge sheet before the court.

41. He was cross-examined by learned counsel for accused, wherein he denied all the suggestions which were made him. Hence, on perusal of evidence given by this witness, he being partial I.O., he has

given his evidence about conduct of partial investigation in this case, which is his official duty. In the absence of corroborative evidence of other independent witnesses, the sole evidence given by this witness cannot be believed in order to prove the guilt of accused beyond all reasonable doubt.

42. Hence, on perusal of evidence led by prosecution witnesses in this case, it appears that, there was earlier ill-will between complainant and accused with respect to landed property. Further there is no corroboration between evidence given by complainant, injured and eye witnesses with respect to alleged offences. There is no evidence on record to link the alleged offences to accused and also seizure of material objects from the spot is also not proved by prosecution. Hence, the benefit of doubt leans in favour of accused. There are no sufficient materials on record to show that, accused have committed the alleged offences and prosecution has failed to prove the

guilt of accused beyond all reasonable doubt. Hence, my finding to **Point No.1 to 8 is in the Negative.**

43. **Point No.9:** In view of findings and reasonings given to point No.1 to 8, I proceed to pass the following:

ORDER

Acting U/s.248(1) of Cr.P.C accused are hereby acquitted for the offences punishable U/Sec. 143, 147, 148, 323, 324, 326, 504, 506 R/W. Sec.149 of IPC.

Bail bonds and surety bonds of accused executed at the time of commencement of trial herewith stands cancelled.

M.O.No.1 to M.O.No.4 being valueless, same are ordered to be destroyed after appeal period is over.

(Dictated to the Stenographer directly on computer, corrected by me and then pronounced in the Open court on 5th day of June-2026).

**(Abdul Rahiman .A. Mulla)
I Addl. Sr. Civil Judge & JMFC,
Sindagi.**

ANNEXURES**Witnesses examined on behalf of prosecution:**

PW.1	:	Neelawwa Mallappa Naikodi
PW.2	:	Ningawwa Shivappa Naikodi
PW.3	:	Laxman Chandram Madar
PW.4	:	Mallappa Shivappa Naikodi
PW.5	:	Shankarappa Ramu Hanchinal
PW.6	:	Srishail Mallappa Benakanahalli
PW.7	:	Prashant Sharanappa Domagond
PW.8	:	Davalat Kenchappa Doddamani
PW.9	:	Lalesa Utalsa Nadag
PW.10	:	Yallappa Mallappa Naikodi

Documents marked on behalf of prosecution:

Ex.P.1	:	Complaint
Ex.P.2	:	Photo
Ex.P.3	:	Spot panchanama
EX.P.4 to 7:	:	Wound certificates
Ex.P.8	:	Statement of PW.8
Ex.P.9	:	FIR

Material Objects marked on behalf of prosecution :

M.O.No.1 to 3	:	3 sticks
M.O.No.4	:	Sickle

Witnesses examined on behalf of accused:

-Nil-

Documents marked on behalf of accused:

-Nil-

(Abdul Rahiman .A. Mulla)
I Addl. Sr. Civil Judge & JMFC,
Sindagi.