



**IN THE COURT OF IInd ADDL.DISTRICT AND
SESSIONS JUDGE, YADGIR,
SITTING AT SHORAPUR.**

:PRESENT:

**Sri. Yamanappa Bammanagi, B.A.LL.B (Spl.)
IInd Addl. District & Sessions Judge, Yadgir,
sitting at Shorapur.**

DATED THIS THE 27th DAY OF JUNE, 2026.

**S.C. NO.5094/2025
(OLD S.C. NO.68/2021)**

Complainant: The State of through Kembhavi P.S.

(By Sri. Public Prosecutor)

//Versus//

Accused 01. Rayappa S/o Krushnaraya Tanakedar,
Age: 35 Years, Occ: Coolie,
R/o Mavinamatti,
02. Ravi S/o Krushnaraya Tanakedar,
Age: 20 Years, Occ: Coolie,
R/o Mavinamatti,
03. Ambrish S/o Bheemanna Tanakedar,
Age: 24 Years, Occ: Coolie,
R/o Mavinamatti,

(By Sri.JBK Adv.,)

1) Date of offence : 21.03.2021
2) Date of report of offence : 21.03.2021



- 3) Name of the complainant : Kareppa Pujari S/o Bhimaraya.
- 4) Commencement of trial : 30.08.2025
- 5) Closing of trial : 25.04.2026
- 6) Offences complained of : P/U/Sec.448, 307, 326, 504, R/w 34 of IPC.
- 7) Opinion of the Judge : Accused No.1 to 3 is found notguilty, hence acquitted.

JUDGMENT

The PSI Kembhavi P.S, has filed charge sheet against accused No.1 to 3 for the offence P/U/Sec.448, 307, 326, 504 R/w 34 of IPC.

2. Brief facts of the prosecution case:

On 21.03.2021, the complainant lodged the complaint stating that, himself and CW.6 and 7 were sleeping in their house, it was about 01.40 am in the midnight hours they heard door knocking sound, he wake up and went to door and open the door, suddenly accused No.1 assaulted him with axe on his left thigh, caused bleeding injury, on account of which, he screamed, on hearing the same his wife had come to him, on seeing his



wife accused persons ran away by giving, life threat to him stating that, they will come again and finish him, Thereafter his wife and his family members took him to Kamareddy Hospital Kalaburgi, when he was taking treatment in the said hospital police had come to the hospital and inquired with him, and he has stated before the police about the incident, on basis of complaint crime has been registered, after investigation IO has filed charge sheet against accused, hence he lodge the complaint.

3. After hearing the learned counsel for the accused and on perusal of entire charge sheet, as their is sufficient material to proceed against accused, hence the accused was not discharged under Sec.227 of Cr.P.C, and has framed charges for the offences P/U/Sec.448, 307, 326, 504 R/w 34 of IPC, as required U/Sec.228 of Cr.P.C.

4. Charges read over and explained in the language known to the accused, he denied and claimed to be tried, the accused not plead guilty, so, the accused



was not convicted U/Sec.229 of Cr.P.C. hence, fixed the date for recording of evidence of the prosecution witnesses, prosecution has examined as many as 08 witnesses as PW1 to 8, and got marked Ex.P1 to 8.

5. The statement of accused U/Sec.313 of Cr.P.C was recorded, due to availability of the evidence against accused persons, the accused persons were not acquitted U/Sec.232 of Cr.P.C, thereafter accused persons were called upon to lead their defense evidence, accused submitted that, they have no defense evidence.

6. Heard argument of the Ld PP and argument of Ld counsel for the accused persons.

7. I have perusal the oral and documentary evidence, material placed before the court by the prosecution and considered the argument of learned PP, and learned counsel for the accused person, on perusal of the same, the points that would arise for my consideration are as follows:-



POINT NO.1: Whether prosecution proves beyond all reasonable doubt that, on 21.03.2021, at 01.40 am, when complainant and his wife were sleeping in his house, at that time, accused No.1 to 3 trespassed into house with revenge in connection with taken water for their land and with intent to commit offence and thereby accused persons committed offence of house trespass P/U/Sec.448 R/w 34 of IPC ?

POINT NO.2: Whether prosecution proves beyond all reasonable doubt that, the accused persons after trespassing into the house, with common intention, accused No.1 assaulted on CW1 with axe with intent to kill him and thereby accused persons committed attempt to commit murder of CW1 P/U/Sec.307 R/w 34 of IPC ?



POINT NO.3: Whether prosecution proves beyond all reasonable doubt that, the accused persons after trespassing into the house, with common intention to assault on CW1 and accused No.1 assaulted on CW1 with axe and caused grievous injury and thereby accused persons committed offence P/U/Sec.326 R/w 34 of IPC ?

POINT NO.4: Whether prosecution proves beyond all reasonable doubt that, accused persons abused in filthy language to the wife of complainant and accused committed offence P/U/Sec.504 R/w 34 of IPC ?

POINT NO.5: What order ?

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

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 : **As per the final order**



for the following;

REASONS

9. POINT NO.1 to 4: These points are inter connected to each other, in order to avoid repetition these points are taken for common discussion. In order to prove its case the prosecution has examined PW1 to 8, and got marked Ex.P1 to P8 and the CW-1 Kareppa as PW1, CW6 Vijayalaxmi as PW2, CW7 Nandamma as PW3, CW-2 Beeranna as PW4, CW-3 Ningappa as PW5, CW-8 Munnar Basha as PW6, CW-5 Muktumasab as PW7, CW-12 Hanamantappa as PW8, and got marked Ex.P1 to P8. Ex.P1 is the complaint, Ex.P1(a) is the signature of PW8, Ex.P2 is the statement of PW2, Ex.P3 is the statement of PW3, Ex.P4 is the signature of PW4, Ex.P4(a) is the signature of PW8, Ex.P5 is the sketch map, Ex.P5(a) is the signature of PW5, Ex.P6 is the panchanama-I, Ex.P6(a)(b) are the signature of PW7 and 8, Ex.P7 is the panchanama-II, Ex.P7(a) (b) are the signature of PW7 and 8, Ex.P8 is the FIR and MO1 to 4.



MO No.1 is the one towel, MO.No.2 is the one Lungi,
MO.No.3 is the one shirt, MO No.4 is the one axe.

10. The case of the prosecution is already extracted supra, the prosecution has examined as many as 08 witnesses. PW1 is the complainant, he deposed that, CW.6 is his wife, CW.7 is wife of his elder brother, he know accused No.1 to 3 who are present before the Court, he is in all 7 brothers, there was a dispute between himself and accused persons in connection with flowing of water, on 20.03.2021 himself and CW.6 and 7 were sleeping in his house, it was about 01.40 am in the midnight hours he heard door knocking sound, hence he wake up and went to door and open the door, suddenly accused No.1 assaulted with axe on he left thigh, caused bleeding injury, on account of which, he screamed, on hearing the same his wife had come to him, on seeing his wife accused persons ran away by giving, likethreat to him stating that, they will come again and finish me, thereafter his wife and his family



members took to Kamareddy Hospital Kalaburgi, when he was taking treatment in the said hospital police had come to the hospital and inquired with him he has stated before the police about the incident and he put his thumb mark on his complaint, accused person assaulted with axe with a intention to kill me, accused persons are belongs to our village, witness identify axe with which accused No.1 assaulted, same is marked at MO.1, witness identified his shirt, lungi and towel worn by him at the time of incident at marked at MO.2 to 4. witness identified blanket belongs to him at marked as MO.5. MO.1 to 5 stained with his blood.

11. The prosecution examined PW2, PW2 deposed that, CW.1 is her husband, CW.7 is wife of elder brother of her husband, she know accused persons who are present before the Court, she do not know anything about the incident in question, since she was slept hence she do not know what and happened to



her husband, she has not given any statement before the police about the incident.

12. The prosecution examined PW3, PW3 deposed that, CW.1 is younger brother of his husband, CW.6 is wife of CW.1, he know accused persons who are present before the Court, he do not know anything about the incident inquisition, since he was slept hence he do not know what and happened to CW.1, he has not given any statement before the police about the incident.

13. PW4 deposed that, he know CW.3, I do not know anything about the incident, about 5 years back police took his thumb mark on paper, he do not know contents of said paper, no panchanama was conducted in his presence, no article seized in his presence.

14. The prosecution examined PW5, he deposed that, he know CW.2, he do not know anything about the incident, about 5 years back police took his thumb mark on paper, he do not know contents of said paper,



no panchanama was conducted in his presence, no article seized in his presence.

15. The prosecution examined PW6, he deposed that, From 2019 till today he has been serving as secretary in Gram panchayat in Peth Ammapur, on 06.07.2021 he received requisition from Kembhavi police for Khata extract of house of CW.1, on receipt of the same he issued Khata extract of house of CW.1 to the police, he can identified the same if shown, witness identified Khata extract.

16. The prosecution examined PW7, he deposed that, he know CW.4, the documents now shown to bears his signature, witness identified his signature on seizer panchanama, and witness identified his signature on seizer panchanama, about 5 years back police took his signature on two paper at police station, he do not know for what purpose police took his signature, he do not know contents of Ex.P6 and 7, no articles seized by the police in his presence.



17. The prosecution examined PW8, he deposed that, on 21.03.2021 at 07.00 pm when he was in the Police station on duty he received MLC from Kamareddy Hospital Kalaburgi and he deputed ASI Shamburao and sent him to the said hospital for recording statement of injured and said ASI gone to the hospital and recorded statement of CW.1 and came back and submitted before him, thereafter on basis of said complaint he registered Cr.No.40/2021 of Kembhavi PS for the offence punishable U/sec 448, 307, 326, 504 R/w 34 IPC and registered FIR and thereafter he sent the FIR in complaint to the Court and our higher officers, said FIR and complaint, on 22.03.2021 he had been to the spot and conducted spot panchanama in the presence of CW.2 and 3 from 09.00 am to 10.00 am as per Ex.P4, spot shown by CW.7, on the same day he seized one towel and lungi and shirt under seizer panchanama, conducted in Kembhavi PS, in the presence of CW.4 and 5 from 06.00 pm to 07.00 pm as Ex.P6, on the same



day he seized axe in seizer panchanama from accused No.1, conducted in the land belongs to one Ranganath situated within the limits of Godrihal, in the presence of CW.4 and 5 as per Ex.P7, from 01.00 pm to 02.00 pm, witness identified axe same is marked at MO.4, thereafter he handed over further investigation to CW.13.

18. On careful scrutiny of oral and documentary evidence led by the prosecution, it is clear that, no prosecution witnesses have supported the prosecution case. PW1 is the complainant deposed that, on 21.03.2021 at 1.40 am, the accused persons came and assaulted on him, when he was sleeping in the house with his wife. But, in the cross-examination PW1 deposed, which reads thus;

We used to sleep in a different rooms in our house. Since it was dark hence one cannot identify who knock the door. Except dispute in connection with lease and water there was no any serious ill will between us. It is true that, on that night I wakeup to answer first nature call, when I



was going to first nature call I fell on chop and sustained injuries. It is false to suggest that, my elder brother has lodged false complaint against the accused taking advantage of injuries sustained by me.

19. Thus, the evidence of PW1 deposed in the cross-examination extracted supra clearly shows that, he sustained injury due to fall on chop when he was going to answer first nature call in the night hours. Thus, the evidence of PW1 deposed in the chief-examination that, accused No.1 assaulted on him with axe is found false. That apart, PW1 himself deposed that, when accused No.1 assaulted on him, his wife came to rescued him, at that time, accused persons ran away from the spot by giving life threat, but, the CW6 is wife of CW1, CW6 is examined as PW2, she deposed that, CW1 is her husband, CW7 is wife of elder brother of her husband, she know accused persons, she do not nothing about the incident in question, since she was sleeping hence she do not no what had happened to



her husband, and she has not given any statement before the police about the incident in question.

20. On careful scrutiny of evidence of PW2, who is wife of PW1 it is clear that, the evidence of PW1 can not be believed, because, he deposed in his evidence that, when accused No.1 assaulted him with axe his wife came for rescuing him, but, PW2 deposed that, she was sleeping in the night, she do not know what had happened to her husband, further, she deposed that, she has not given statement to the police about the incident in question. Thus, the evidence of PW1 and 2 are not credit one and not believable and not reliable evidence and which creates doubt about the prosecution case. PW3 is wife of younger brother of CW1, but, she deposed that, she do not know anything about the incident in question. PW4, 5 and 7 are pancha witness, they have not supported not supported prosecution case. PW6 deposed that, he has issued khata extract of house of CW1 as per Ex.P5. Thus, it is clear from the



evidence of PW4, 5 and 7 that, prosecution utterly failed to prove spot panchanama and seized panchanama. PW2, 3 to 5 and 7 they deposed that, they do not know any thing about he incident and they have not given any statement before the police, even PW1 being complainant, went on to depose that, he sustained injury due to fall on chop, further the prosecution has examined independent witnesses to prove its case but, no independent witnesses and panch witnesses have supported the prosecution case.

21. On careful scrutiny of evidence of PW1 to 7 as extracted supra, it is clear that, prosecution failed to prove its case beyond all reasonable doubt, because PW2 to 7 are independent witnesses and panch witnesses, they specifically deposed that, they do not know any thing about the incident, they do not know any thing about the incident and they have not given any statement before the police, thus, it is clear that, no case has been made out by the prosecution against the



accused persons as all the prosecution witnesses have turned hostile and they have not supported the prosecution case.

22. The complainant and relative witnesses and independent witnesses are examined as PW2 to 7, have not supported the prosecution case, and they went on to depose that, they have not given any statement and further statement before the police. Thus, it is clear from the evidence of prosecution witnesses itself, that the prosecution failed to prove its case beyond all reasonable doubt that, accused persons have committed offences as alleged against him, it is clear that, the prosecution utterly failed to prove its case beyond all reasonable doubts, and accused persons are entitle for benefit of doubt.

23. On careful scrutiny of entire prosecution evidence, it is clear that, no single ingredients of offences alleged against accused persons are proved by the prosecution beyond all reasonable doubt. It is well



settle law that, even though court, if convinced that a particular part of the testimony of hostile witness, whether it forms part of examination in chief or cross-examination, is true, can act. Mere fact that he was declared as hostile and allowed to be cross-examined, does not make him unreliable, so exclude his evidence from consideration altogether.

24. The correct rule is that either side may rely upon the evidence of a hostile witness and that the whole of the evidence, in so far it affects both parties favorable or not, must be considered for what it is worth. But testimony is found to be wholly or thoroughly unreliable the whole of it has to be discarded.

25. In the case on hand, PW1 complainant, deposed before the court that, he sustained injury due to fall on chop when he was going to answer first nature call, such evidence are not proves the case of the prosecution



beyond all reasonable doubt, no single ingredients of offences alleged against accused person is proved by the prosecution beyond all reasonable doubts and accused persons are entitle for benefit of doubts. Off-course, PW8 IO has deposed that, he took further investigation, visited spot, arrested the accused, conduct inquest panchanama, recorded statement witnesses and submitted charge sheet, but, evidence of PW8 is not supported by independent witness, even relative witness, without corroborative evidence it can not be believed the evidence of official witness. Hence, I constrained to answer these point No.1 to 4 in the **Negative.**

26. POINT NO.5: In view of the findings on point No.1 to 4, I proceed to pass the following;

ORDER

Acting U/Sec.235(1) of
Code of Criminal Procedure, the
accused No.1 to 3 is hereby



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SC.No.5094/2025
(Old SC.No.68/202 1)

acquitted for the offences

P/U/Sec.448, 307, 326, 504 R/w

34 of IPC.

The bail bond and surety
bond of accused persons shall
stands canceled.

M.O.1 to 4 being worthless,
ordered to be destroyed, after
expiry of the appeal period.

(Dictated to the Stenographer-III directly on computer, transcript
computerized by her, corrected, initialed and then pronounced by me in
the open court, on this the 27th of June – 2026)

(Yamanappa Bammanagi)
(II nd Addl. District and Sessions Judge
Yadgir, Sitting at Shorapur)

ANNEXURE

Witnesses examined on behalf of prosecution:

PW1 : Kareppa S/o Bhimaraya
PW2 : Vijayalaxmi W/o Kariyappa
PW3 : Nandamma W/o Nagappa
PW4 : Beeranna W/o Mallanna
PW5 : Ningappa S/o Bhimaraya
PW6 : Munnar Basha S/o Nabisab



PW7 : Maktumasab S/o Masunsab
PW8 : Hanamantappa S/o Sabanna

Documents marked on behalf of prosecution:

Ex.P1 : Complaint
Ex.P1(a) : Signature of PW8
Ex.P2 : Statement of PW2
Ex.P3 : Statement of PW3
Ex.P4 : Signature of PW4
Ex.P4(a) : Signature of PW8
Ex.P5 : Sketch map
Ex.P5(a) : Signature of PW5
Ex.P6 : Panchanama-I
Ex.P6(a)(b) : Signature of PW7 and 8
Ex.P7 : Panchanama-II
Ex.P7(a)(b) : Signature of PW7 and 8
Ex.P8 : FIR
MO No.1 : One towel
MO.No.2 : One Lungi
MO.No.3 : One shirt
MO No.4 : One axe

Witnesses examined on behalf of accused:

NIL

Documents marked on behalf of accused:

NIL

(Yamanappa Bammanagi)
(II nd Addl. District and Sessions Judge
Yadgir, Sitting at Shorapur)