

KARC300004372023



Presented on : 08-02-2023

Registered on : 08-02-2023

Decided on : 06-03-2024

Duration: 1 years, 0 months, 26 days

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

Present :-SRI. CHANDRASHEKHARA P. DIDDI, B.A., L.L.M.  
Senior Civil Judge & J.M.F.C.  
Lingasugur.

**C. C. No. 135/2023 (1613/2022)**

**Dated: 06<sup>th</sup> day of March 2024**

**Complainant:-** The State R/by Lingasugur Sub-Inspector,

(Represented by: Learned Asst. Public Prosecutor)

**-Versus-**

- Accused:-**
- 1) Shivaraj S/o Amarappa Kumbar,  
Age: 24 years, Occ: Student.
  - 2) Mudukappa S/o Sangappa Kumbar,  
Age: 55 years, Occ: Agri.,
  - 3) Adappa S/o Sangappa Kumbar,  
Age: 33 years, Occ: Agri.
  - 4) Basavaraj S/o Mudukappa Kumbar,  
Age: 24 years, Occ: Student.

- 5) Muthanna S/o Mudukappa Kumbar,  
Age: 23 years Occ: Student.
- 6) Amarappa S/o Sangappa Kumbar,  
Age: 55 years, Occ: Agri.,
- 7) Ayappa S/o Chandappa Kumbar,  
Age: 50 years, Occ: Agri.,
- 8) Channabasappa S/o Amarappa Kumbar,  
Age: 51 years, Occ: Agri.,

All are residing at Echanal village  
Tq: Lingasugur, Dist: Raichur.

( Represented by : Sri. AAG., Advocate.)

### **JUDGMENT**

The PSI of Lingasugur Police Station has filed charge sheet against the accused No.1 to 6 for the offence punishable U/Sec. 143, 147, 323, 506 R/w Sec. 149 of I.P.C.

#### **2. The brief facts of the prosecution case are having under;**

On 14-05-2022 at about 11.00 am, in Echanal village, there is rivalry between the accused and C.W.1, in respect of road to reach land, on account of that all accused formed unlawful assembly picked up quarrel with C,W.1, accused no-1 assaulted with hand to the C.W.1 fore head, stomach, and left hand finger, voluntarily caused simple injuries. The accused given life threat

stating that if C.W.1 asked the document, he will finish him. Thereafter complainant filed complaint against the accused. After completion of the investigation, the Lingasugur police have filed charge sheet against the accused for the aforesaid offences. After issuance of the summons the accused have appeared before this court, all the accused are enlarged on bail.

3. After filing of the Charge sheet, cognizance taken and case registered against the accused. In response to the summons accused appeared before court, Copies of prosecution were supplied to him as required U/Sec.207 of Cr.P.C, The charge was framed, read over and explained to all the accused in the language known to them. They have pleaded not guilty and claimed to be tried.

4. In view of the plea of the accused, summons were issued to the prosecution witnesses. On summons the prosecution has examined 07 witnesses as P.W.1 to 7.

5. After closure of the evidence of prosecution side, the incriminating circumstances arising in the evidence of prosecution witnesses were read over and explained to the accused as

contemplated U/S. 313 of Cr.P.C. Accused have denied the whole story of the prosecution evidence as false. No defense evidence has been adduced on their behalf.

6. Heard the arguments of the learned APP for state and the learned defense counsel for the accused.

7. On perusal of records the following points would raise for my consideration:-

- i. Whether the prosecution proves beyond all reasonable doubt that, On 14-05-2022 at about 11.00 am, in Echanal village, there is rivalry in between the accused and C.W.1, in respect of road to reach the land, on account of that all accused formed unlawful assembly picked up quarrel with C,W.1, committed offence of rioting and there by committed an offence punishable under sec 143, 147 R/w Sec.149 of IPC ?
- ii. Whether the prosecution proves beyond all reasonable doubt that on the above said date and time and circumstance accused no1 assaulted Cw.1 forehead, stomach, hand fingers, voluntarily caused simple injuries and there by committed an offence punishable under sec 323 R/w Sec.149 of IPC ?
- iii. Whether the prosecution proves beyond all reasonable

doubt that on the above said date and time and circumstance accused given life threat stating that if C.W.1 asked the document, he will finish him and there by committed an offence punishable under sec 506 R/w Sec.149 of IPC ?

iv. What order?

8. My answer to above points are as under:-

Point No.1 to 3 : Negative.

Point No.4 : As per final order  
for the following.,

### **REASONS**

9. **POINT NO.1 to 3 :-** In order prove the prosecution case, the prosecution examined 07 witnesses. PW-1 is the complainant, in examination chief, he deposed that on 04-05-2022, at 11-00 am in respect of property bearing Sy No-89, village accountant came to the spot for Mahazar, accused obstructed for Mahazar, the accused abused him in the filthy language, assaulted with iron rod to the back side of neck. The accused assaulted with hand to the stomach and head, voluntarily caused injures, C.W.6 and 7 pacified the quarrel. The accused counsel cross examined P.W.1.

10. P.W.6 deposed that P.W.1 is her son. P.W.7 is her grand son.

About 1 and ½ half year back accused quarreled with P.W.1. Accused assaulted with club to head, finger and stomach, caused simple injuries. The accused given life threat. She has given statement before the police. The accused counsel cross examined the P.W.6.

11. P.W.7 deposed that accused quarreled with P.W.1, accused assaulted with club to P.W.1 stomach and forehead the accused have given life threat, He has given the statement before the police. The accused counsel cross examined P.W.7.

12. P.W.6 deposed that, he has examined the P.W.1 on the history of assault and issued the wound certificate as per Ex.P.3, this witness signature marked as Ex.P.3(a). Further deposed that the injuries mentioned in Ex.P.3 are simple in nature.

13. P.W.3 and 4 are mahazar witnesses. Both are identified signature in the Mahazar, signature marked as Ex.P.2(b) and 2(c).In examination chief both the witnesses supported to the prosecution case. In the cross examination both have deposed that they did not know the contents of the panchanama.

Therefore, both witnesses totally turned hostile to the prosecution case.

14. P.W. 2 is the investigation officer. On 08-05-2022, he has conducted pachanama as Per Ex P-2, signature marked as 2(a). he has recorded the statement of witnesses. He has received the wound certificate as per the Ex. P-3, C.W.7 received the complaint and registered the case under crime88/2022. After completion of the investigation, filed charge sheet against the accused. The accused counsel in the cross examined, in the cross examination denied the role of the investigation officer.

15. On perusal of the evidence of P.W.1 and complaint averments, it reveals that there is rivalry in between the complainant and accused. The P.W1 in examination chief deposed as under:-

ಆರೋಪಿ ಶಿವರಾಜ ಕುಂಟೆ ಕುಡಾ ತೆಗೆದುಕೊಂಡು ನನ್ನ ಕುತ್ತಿಗೆಯ

ಹಿಂಭಾಗಕ್ಕೆ ಹೊಡೆದಿರುತ್ತಾನೆ ಮತ್ತು ಕೈಗೆ ಹೊಟ್ಟೆಗೆ, ತಲೆಗೆ ಹೊಡೆದಿರುತ್ತಾನೆ.

16. As per deposition of the P.W.1 he has sustained injury to the neck, stomach and head. On perusal of the doctor evidence, the P.W.1 sustained injury to the forehead, stomach and right hand thumb finger. The P.W.1 never stated before the doctor that he

has sustained injury to the neck. Therefore P.W.1 evidence and doctor evidence are not corroborate with each other. The P.W.1 deposed that he has given complaint on the date of incident. On perusal of the complaint, incident occurred on 04/05/2022, the complainant lodged the complaint on 7/5/2022. Therefore there is 3 days delay in filing the complaint. P.W.7 in the cross examination deposed as under:-

ಜಗಳ ಆದ ಮರುದಿನ ನಾನು ಪೊಲೀಸ್ ಠಾಣೆಗೆ  
ಹೋಗಿ ಬೇಟಿಯಾದೆ. ರಾಜಿ ಸಂಧಾನಕ್ಕೆ ಕರೆಸಿದರು ನಂತರ  
ತಡವಾಗಿ ನಾನು ನನ್ನ ಮಾವ, ನನ್ನ ಅಮ್ಮ ಎಲ್ಲರೂ ಸೇರಿ  
ದೂರು ಕೊಟ್ಟಿದ್ದೇವೆ.

17. As per the above deposition, it reveals that the P.W.1,6 and 7 after thought filed the compliant. Apart from that the P.W.6 in the cross examination deposed as under :-

ಸರ್ವೆ ನಂಬರ್: 89/1 ರಲ್ಲಿ ಆರೋಪಿತರು ಸುಮಾರು 40-45 ವರ್ಷದಿಂದ  
ಮನೆ ಕಟ್ಟಿಕೊಂಡಿದ್ದಾರೆಂದರೆ ಸರಿ. ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ಸ್ಥಾನ ಇದೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಸದರಿ  
ಜಮೀನಿನಲ್ಲಿ 40-45 ಗೋರಿಗಳು ಇವೆ ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಸರ್ವೆ ನಂಬರ್: 89/1  
ಆಸ್ತಿಯನ್ನು ಚಾಸಾ-1 ರವರು ತನ್ನ ಹೆಸರಿಗೆ ಮಾಡಿಕೊಳ್ಳಲು ತಹಶೀಲ್ದಾರರಿಗೆ ಅರ್ಜಿ  
ಕೊಟ್ಟಿದ್ದಾರೆಂದರೆ ಸರಿ. ಆಗ ಆರೋಪಿತರು ಸದರಿ ಅರ್ಜಿಗೆ ತಕರಾರು ಕೊಟ್ಟರು ಎಂದರೆ ಸರಿ.

ಆಗ ತಹಶೀಲ್ದಾರರು ಊರಿಗೆ ಬಂದು ವಿಚಾರಿಸಿದರು ಎಂದರೆ ಸರಿ. ನಂತರ ಸದರಿ ಜಾಗೆ ಸ್ಥಳಾಧಿಕಾರಿ ಸೇರಿದ್ದು ತಹಶೀಲ್ದಾರರು ಆದೇಶ ಮಾಡಿದರು ಆ ಸಿಟ್ಟಿನಿಂದ ನನ್ನ ಮಗ ಆರೋಪಿತರ ಮೇಲೆ ಕೇಸ್ ಮಾಡಿದ್ದಾನೆಂದರೆ ಸರಿಯಲ್ಲ.

18. On perusal of the P.W.6 evidence, it reveals that the dispute in between the C.W.1 and accused is the civil dispute. In this case except P.W.6 and 7, other independent witness not cited by the I.O. The panchanama witnesses turned hostile to the prosecution case. As per the above discussion prosecution story creates doubt. It is settled principle of law that benefit of doubt should go to accused. Therefore, the prosecution failed to prove guilt of the accused beyond of the reasonable doubt. Accordingly, I answer the Point No.1 to 3 in the Negative.

19. **POINT NO.4:-** In view of the discussion above made, I proceed to pass following

### **ORDER**

Acting under section 248 (1) of Criminal Procedure Code, the Accused are hereby acquitted for the offence punishable under section 143, 147, 323, 506 R/w Sec. 149 of I.P.C.

The bail bonds and surety bonds, other than the one executed under section 437-A of Criminal Procedure Code, stands cancelled.

**Sd/-**

**(Chandrashekhara P. Diddi)**

Senior Civil Judge & J.M.F.C.,  
Lingasugur.

### **ANNEXURE**

#### **I) Witnesses examined on behalf of Prosecution.**

PW1 : Ananda S/o Amarappa.  
PW2 : Hanumanthappa S/o Raamaji.  
PW3 : Mounesh S/o Mammayya.  
PW4 : Dyamanna S/o Gaddeppa.  
PW5 : Dr. Basavaraj S/o Kuppanna.  
PW5 : Earamma W/o Amarappa.  
PW7 : Sangappa S/o Shankrappa.

#### **II) Documents exhibited on behalf of Prosecution:**

Ex P-1 : Complainant.  
Ex P-1(a) : Signature of Pw-1.  
Ex P-1(b) : Signature of Pw-2.  
Ex P-2 : Panchanama.  
Ex P-2(a) : Signature of Pw-2.  
Ex P-2(b) : Signature of Pw-3.  
Ex P-2(c) : Signature of Pw-4.  
Ex P-3 : Wound Certificate.  
Ex P-3(a) : Signature of Pw-2.  
Ex P-3(b) : Signature of Pw-5.  
Ex P-4 : FIR.  
Ex P-4(a) : Signature of Pw-7.

**III) Material Objects marked on behalf of prosecution:**

----NIL----

**IV) Witnesses examined on behalf of defence:**

----NIL-----

**V) Documents exhibited on behalf of defence:**

----NIL-----

**Sd/-****(Chandrashekhara P. Diddi)  
Senior Civil Judge & J.M.F.C.,  
Lingasugur.**