



**IN THE COURT OF THE PRL CIVIL JUDGE & JMFC.,
AT HONNAVAR.**

-:PRESENT:-

**SRI. IRANNA HUNASHIKATTI, B.COM., L.L.B.,
C/c Prl. Civil Judge & JMFC.,
Honnavar.**

Dated this the 11th day of November-2024.

CRIMINAL CASE No. 2558/2022.

<u>COMPLAINANT:-</u>	The State through Honnavar Police Station
	(Represented by Asst Public Prosecutor)
	//Versus//
<u>ACCUSED/S:-</u>	1. Ram S/o Manju Gowda, Aged about : 60 years, Occupation : Agriculturist, 2. Rajesh Ram Gowda, Aged about : 27 years, Occupation : Driver, 3. Kumar Ram Gowda, Aged about : 24 years, Occupation : Coolie, [All accused are belongs to Belekeri Village, Mavinkurva, Honnavar] Taluk : Honnavar.]
	(Represented by Sri. K.S.B. Advocate)

1.	Date of commission of offence	23.10.2021.
2.	Date of report of offence	23.10.2022.
3.	Date of arrest of the accused	-----
4.	Name of the informant	Smt. Ratna W/o Subray Gowda, R/o Belekeri, Taluk : Honnavar,
5.	Date of recording evidence	04-10-2024.
6.	Date of closing evidence	04-10-2024
7.	Offences complained of Act	U/Secs 341, 323, 324, 354, 504 and 506 R/w 34 of IPC.
8.	Judgment pronounced on	11.11.2024.
9.	Opinion of the PO.	As per final order.
10.	State represented by	Learned A.P.P.
11.	Accused defended by	Sri. K.S.B. Advocate.

(IRANNA HUNASHIKATTI)
C/c Prl Civil Judge & JMFC.,
Honnavar.

J U D G M E N T

The PSI, Honnavar Police Station has filed the charge sheet against the accused persons for the offences punishable U/Secs 341, 323, 324, 354, 504 and 506 R/w 34 of IPC.

2. Brief version of the case of the prosecution as unfolded during the trial is as under:-

It is alleged by the prosecution that on 23-10-2021 at 6:00 p.m, near grocery shop, beside Hosad bridge, Mavinakurva village, within

the jurisdiction of Honnavar police station, the accused persons in furtherance of their common intention abused to CW4 & CW1 in the filthy language. Further, accused persons wrongfully restrained to CW1 & dragged her by holding her hairs and caused simple injuries. Further accused No.3 assaulted on CW4 with stick and caused simple injuries. Further accused persons threatened to the life of the CW1, CW4 and thereby accused have committed the offenses punishable under sections 341, 323, 324, 354, 504 and 506 R/w 34 of IPC.

3. It is further alleged by the prosecution that, on same day, the informant went to Honnavar Police Station and gave her first information. Pursuant to the first information, case was registered under Crime No. 276/20212. Thereafter they transmitted a copy of FIR to the Court and thereby set the law into motion.

4. Thereafter investigation was taken up and after completion of the investigation charge sheet filed against the accused persons. After filing of the charge sheet, since there were sufficient materials to proceed against the accused persons, hence this court took cognizance for the offences punishable under sections 341, 323, 324, 354, 504 and 506 R/w 34 of IPC and registered in Criminal Register and issued summons to the accused persons. In response to the summons, the accused persons have appeared before this court through their advocate and released on bail. Thereafter copy of the prosecution papers was furnished to the accused persons in compliance of

mandatory requirements U/Sec 207 of Cr.P.C.

5. Heard learned A.P.P. and learned advocate appearing for the accused persons on the charge. As there were sufficient materials to frame charge, charge was framed against the accused persons for the offences punishable U/Secs 341, 323, 324, 354, 504 and 506 R/w 34 of Indian Penal Code. The same was read over and explained to the accused persons for which they have pleaded not guilty and claims to be tried.

6. In order to prove the case, the prosecution has got examined two witnesses as PW1 & PW2, and got marked the documents at Ex.P1 to Ex.P5. Thereafter the evidence of prosecution was taken as closed.

7. As there were no incriminating circumstances appearing in the prosecution evidence, the statement of the accused persons U/Sec 313 of Cr.P.C., was dispensed with.

8. Heard the arguments of learned A.P.P. and learned Counsel for the accused persons.

9. On perusal of the materials placed on record and upon hearing, the following points that arise for the consideration of this Court are:-

:-POINTS:-

1. Whether the prosecution has proved beyond reasonable doubt, that on 23-10-2021 at 6:00 p.m,

near grocery shop, beside Hosad bridge, Mavinakurva Village, within the jurisdiction of the Honnavar police station, the accused persons in furtherance of their common intention abused to CW1 & CW4 in the filthy language and thereby accused have committed an offence punishable U/Sec. 504 R/w 34 of Indian Penal Code?

2. Whether the prosecution has proved beyond reasonable doubt that, on the above said date, time and place, the accused persons in furtherance of their common intention wrongfully restrained to CW1 and thereby accused have committed an offence punishable U/Sec. 341 R/w 34 of Indian Penal Code?
3. Whether the prosecution has proved beyond reasonable doubt that, on the above said date, time and place, the accused persons in furtherance of their common intention assaulted on CW1 & , CW4 with their hands and caused simple injuries, and thereby accused have committed an offence punishable U/Sec. 323 R/w 34 of Indian Penal Code?
4. Whether the prosecution has proved beyond reasonable doubt that, on the above said date, time and place, the accused persons in furtherance of their common intention assaulted on CW4 with sticks and caused simple injuries, and thereby accused have committed an offence

punishable U/Sec. 324 R/w 34 of Indian Penal Code?

5. Whether the prosecution has proved beyond reasonable doubt that, on the above said date, time and place, the accused persons in furtherance of their common intention threatened to the life of CW1 & CW4 and thereby accused has committed an offence punishable U/Sec. 506 R/w 34 of Indian Penal Code?

6. Whether the prosecution has proved beyond reasonable doubt that, on the above said date, time and place, the accused persons in furtherance of their common intention outrage the modesty of CW1 dragged her by holding her hairs and thereby accused has committed an offence punishable U/Sec. 354 R/w 34 of Indian Penal Code?

7. What order?

10. The findings of this Court to aforesaid points are as hereunder;

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 : As per final order,

For the following:-

:- R E A S O N S :-

11. Points No. 1 to 6 :- Since these points are interconnected with each other and involve common discussion, they are taken up together for consideration in order to avoid repetition of facts.

12. In order to prove the guilt of the accused persons, the prosecution has examined two witnesses as PW1 & PW2 and got marked Ex.P1 to Ex.P5. The prosecution has examined the informant by name Ratna W/o Subray Gowda as PW1 and witness by name Raghavendra S/o Subray Gowda as PW2. The Prosecution has got marked the documents such as Ex.P1 is the complaint, Ex.P2 is the spot mahazar, Ex.P3 is the 164 statement of PW1, Ex.P4 is the Re-statement of PW1 & Ex.P5 is the statement of PW2.

13. PW1 has deposed in her examination in chief that she knew the accused persons, who have neither made any quarrel with her nor assaulted on her. PW2 has deposed in his examination in chief that he knew the accused persons, who have neither made any quarrel with CW1 nor assaulted on CW1. The allegations made by PW1 in Ex.P1 First Information Statement and by PW2 in Ex.P5 statement are denied by them in their evidence. The above witnesses are stated to be

the main witnesses of the prosecution but they have turned hostile and not supported the prosecution case. The Learned APP cross-examined PW1 to PW3 and in their cross-examination they have denied the suggestion put to them regarding the date, time and place of incident and also the acts of the accused persons regarding offences committed by them. Thus, the evidence of the prosecution witnesses runs contrary to their statement given by them before the Police. This creates a doubt in the mind of the Court about the case of the prosecution and the benefit of doubt goes in favour of the accused persons.

14. After the examination of the above said witness, the A.P.P. prayed before the Court to issue process to other witnesses, but since the material witness examined by the prosecution did not support the prosecution case, by the examination of other witnesses, no purpose of the prosecution would have been served. Therefore, the prayer of the learned A.P.P to issue summons to other witnesses was negatived. At this stage, this Court relies upon a judgment delivered by the Hon'ble Supreme Court in Satish Mehra vs Delhi Administration and another, reported in 1996(3) Crimes 84 wherein, at Para 13, the Hon'ble Supreme Court of India held as follows,

**“When the judge is fairly certain that
there is no prospect of the case ending
in conviction the valuable time of the**

court should not be wasted for holding a trial only for the purpose of formally completing the procedure to pronounce the conclusion on the future date.”

15. The principle of law laid down by the Hon’ble Supreme Court in the above case is applicable to this case also. Since there was no incriminatory circumstances appeared against the accused persons, this court has dispensed the recording of statement of the accused U/s 313 of Cr.P.C.

16. Considering the oral evidence of PW1 & PW2 and documentary evidence in this case, this court is opinion that prosecution has failed to prove beyond all the reasonable doubts that the accused persons have committed the offences punishable under Secs 341, 323, 324, 354, 504 and 506 R/w 34 of IPC. **Therefore this court has answered Point No.1 to 6 are in the Negative.**

17. The learned A.P.P has filed an application under section 340 of Cr.P.C., seeking for inquiry against the CW1 under section 340 of Cr.P.C. The learned A.P.P in her application has contended that, the charge sheet has filed against the accused persons for the offenses punishable under sections 341, 323, 324, 354, 504 and 506 R/w 34 of IPC. During the trial, the CW1 was examined as PW1. She turned hostile to the prosecution. The statement of the CW1 under section 164

of Cr.P.C., was marked as Ex.P3. At the time of recording of statement under section 164 of Cr.P.C., the CW1 has given her statement with her own will and wish. Now the CW1 denied the contents of the Ex.P3. Hence, she prayed to take action against the CW1. Hence, this application.

18. For better understanding it is appropriate to quote the above said provision of law. It reads as follows,

Section 340. Procedure in cases mentioned in section 195:-

(1) When, upon an application made to it in this behalf or otherwise, any Court is of opinion an inquiry should be made into any offence referred to in clause (b) of sub-section (1) of section 195, which appears to have been committed in or in relation to a proceeding in that Court or, as the case may be, in respect of a document produced or given in evidence in a proceeding in that Court, such Court may, after such preliminary inquiry, if any, as it thinks necessary,—

- (a) record a finding to that effect;**
- (b) make a complaint thereof in writing;**
- (c) send it to a Magistrate of the first class having jurisdiction;**
- (d) take sufficient security for the appearance of the accused before such Magistrate, or if the alleged offence is non-bailable and the Court thinks it necessary so to do, send the accused in custody to such Magistrate; and**

(e) bind over any person to appear and give evidence before such Magistrate.

(2) The power conferred on a Court by sub-section (1) in respect of an offence may, in any case where that Court has neither made a complaint under sub-section (1) in respect of that offence nor rejected an application for the making of such complaint, be exercised by the Court to which such former Court is subordinate within the meaning of sub-section (4) of section 195.

(3) A complaint made under this section shall be signed,

(a) where the Court making the complaint is a High Court, by such officer of the Court as the Court may appoint;

(b) in any other case, by the presiding officer of the Court or by such officer of the Court as the Court may authorise in writing in this behalf.

(4) In this section, "Court" has the same meaning as in section 195.

19. Keeping the above provision in mind, if we peruse the evidence that has given by the CW1, it is clear that while giving her evidence, the CW1 admits that she has given the statement under section 164 of Cr.P.C., but in continuation she deposed that she has given the statement under the compulsion made by some person. So, it is not expedient in the interests of Justice to allow the present application. Hence, the application filed under section 340 of Cr.P.C., is hereby rejected.

20. Point No. 7:- For foregoing reasons, this court proceeds to pass the following:-

ORDER

In exercise of the power conferred under Section 248(1) of Cr.P.C., 1973, the accused persons are hereby acquitted for the offenses punishable Under Secs. 341, 323, 324, 354, 504 and 506 R/w 34 of Indian Penal Code.

The bail bond executed by the accused and their surety will be in a force for a period of six months as per Section 437A of Cr.P.C.

The property recovered as per P.R.No. 93/2023 shall be destroyed as worthless after appeal period is over.

(Typed by me in my laptop, corrected and then pronounced by me in the open Court, on this the **11th day of November, 2024.**)

(IRANNA HUNASHIKATTI)
C/c Prl. Civil Judge & JMFC.,
Honnavar.

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ANNEXURES

1. List of the Witnesses examined by the Prosecution:-

PW1 : Ratna Subray Gowda.

PW2 : Raghavendra Subray Gowda.

2. List of the documents exhibited for the Prosecution:-

Ex.P1 : Complaint.

Ex.P1(a) : Signature of PW1.

Ex.P2 : Spot Mahazar.

Ex.P2(a) : Signature of PW1.

Ex.P3 : 164 statement of PW1.

Ex.P3(a) : Signature of PW1.

Ex.P3(b) : Signature of PW1.

Ex.P4 : Re-statement of PW1.

Ex.P5 : Statement of PW2.

3. List of the MOs marked on behalf of the Prosecution:-

--Nil--

4. List of the Witnesses examined for defence:-

--Nil--

5. List of the Documents exhibited for defence:-

--Nil--

6. List of the MOs marked on behalf of defence:-

--Nil--

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