

IN THE COURT OF THE IX ADDL.CHIEF METROPOLITAN
MAGISTRATE, AT BENGALURU.

Dated this the 11th day of April 2022

Present : Sri.Arun Sadashiv Gudigenavar,
B.A., LL.B., (Hon's) L.L.M.,
IX Addl.C.M.M., Bengaluru.

CC NO.12060/2019

1.C.C.No.	12060/2019
2.Date of offence	29/11/2019
3.Complainant	State by Parappana Agrahara Police Station.
4.Accused	1.Ramesh S/o. Late Muniyappa, Aged about 40 years, 2. Shylaja W/o. Ramesh, Aged about 33 years, Both R/o. Huskur, Rayasandra village, Bengaluru.
5. Offences complained of	U/Sec.326 & 504 r/w 34 of IPC.

6.Plea	Accused No.1 & 2 pleaded not guilty.
7.Final Order	Accused No.1 & 2 are acquitted.
8.Date of Order	11-04-2022.

JUDGMENT

The Head Constable of Parappana Agrahara Police Station, Bengaluru has filed this charge sheet against the accused No.1 and 2 for the offences punishable u/Sec. 326 and 504 r/w 34 of IPC.

2. The brief facts of the prosecution case are as under:

It is the case of the prosecution that CW.1 and accused No.1 and 2 have been residing besides Bambu Forest at Rayasandra village. Accused No.1 is the younger brother of CW.1 and accused No.2 is the wife of accused

No.1. On 29/11/2018 at around 7.30 am the accused No.1 used the water which was kept in a barrel in front of their house. When Cw.1 questioned the accused No.1 about the use of said water, he picked up quarrel with CW.1 and abused him in filthy language and assaulted him at his legs with stick and caused bleeding injuries. In this regard, CW.1 lodged first information statement. Based on the same FIR came to be registered in Crime No.390/2019 for the offence punishable u/Sec. 325 r/w 34 of IPC. Thereafter, CW.12 conducted investigation and filed charge sheet against the accused No.1 and 2 for the offences punishable u/Sec.325 and 504 r/w 34 of IPC against the accused No.1 and 2.

3. After filing of the charge sheet this Court has taken the cognizance of the offences punishable u/Sec. 326 and 504 r/w 34 of IPC against the accused No.1 and 2 and

issued summons. Accused No.1 and 2 have appeared before this court through their counsel and obtained bail. The copy of the charge sheet has been furnished to the accused No.1 and 2 as per Sec.207 of Cr.P.C. After hearing both sides the charge has been framed and read over to accused No.1 and 2. But they have pleaded not guilty and claimed to be tried. Hence, the case has been posted for prosecution evidence.

4. The prosecution in order to prove its case has examined in all three witnesses as PW.1 to PW.3 and got marked four documents as Ex.P.1 to Ex.P.4. PW.1 to PW.3 have turned hostile to the prosecution case and submitted that they have compromised the case with the accused No.1 and 2. Hence, issuance of the summons to the other witnesses has been dispensed with as it would not serve any purpose. Further the recording of the statement of the

accused No.1 and 2 u/Sec.313 of Cr.P.C. has also been dispensed with.

5. I have heard the arguments of both sides. Perused the entire oral evidence and documents placed on record.

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

(1) Whether the prosecution proves beyond reasonable doubt that on 29/11/2018 at around 7.30 am accused No.1 and 2 in furtherance of common intention assaulted CW.1 with stick and caused bleeding injury to him and thereby committed an offence punishable u/Sec. 326 r/w 34 of IPC ?

(2) Whether the prosecution proves beyond reasonable doubt that on the above said date, time and place the accused No.1 and 2 in furtherance of common intention insulted CW.1 and gave provocation to him intending or knowing it to be likely that such provocation will cause him to break the public peace or to commit any other offence and thereby committed an offence punishable u/Sec. 504 r/w 34 of IPC ?

(3) What order ?

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

Point No.1 & 2 : In the Negative,

Point No.3 : As per final order, for the following :

REASONS

8. **Point No.1 and 2 :** These two points are taken together for common discussion as they are arising out of same incident and interlinked with each other and also to avoid repetition of evidence.

9. The prosecution in order to prove its case has examined in all three witnesses as PW.1 to PW.3 and got marked four documents as Ex.P.1 to Ex.P.4. CW.1 Sri.Venkatesh is the injured witness. But on 8/4/2022 the police have filed the death certificate of CW.1. Hence, Cw.1 has been dropped out. PW.3 is the wife of deceased CW.1 and PW.1 and PW.2 are their son and daughter. They have turned hostile to the prosecution case by deposing that accused No.1 and 2 did not assault CW.1 and did

not abuse CW.1 in filthy language. They did not give any statements before the police in this regard. The learned Sr.APP has treated PW.1 to PW.3 as a hostile witnesses and cross-examined them. But nothing worth has been elicited from them in support of the prosecution case. However, it appears from the cross-examination of PW.1 to PW.3 that they have compromised the case with accused No.1 and 2. Hence, the other witnesses are not examined as it would not serve any purpose. Therefore, I am of the opinion that the prosecution has failed to prove the guilt of the accused No.1 and 2 beyond reasonable doubt. Accordingly, I answer Point No.1 and 2 in the negative.

10. **Point No.3:** For the aforesaid reasons, I proceed to pass the following:

ORDER

Acting under Section 248(1) of Cr.P.C., accused
No.1 and 2 are hereby acquitted of the offences

punishable u/Sec. 326 and 504 r/w 34 of IPC.

The bail bonds of accused No.1 and 2 stands cancelled.

Item No.1 shown in PF No.144(A)/2018 shall be destroyed as worthless after the appeal period is over.

(Dictated to the stenographer directly on computer, corrected directly on computer and then pronounced by me in open court on this the 11th day of April 2022).

(Arun Sadashiv Gudigenavar)
IX Addl.Chief Metropolitan Magistrate,
Bengaluru.

ANNEXURE

List of witnesses examined on behalf of the prosecution:

PW.1: Varun
PW.2: Vidyashree
PW.3: Lakshmi.

List of documents marked on behalf of the prosecution:

Ex.P.1 & 2: Statements of PW.1 & PW.2
Ex.P.3: Panchanama

Ex.P.3(a): Signature of PW.3
Ex.P.4 : Statement of PW.3.

List of material objects marked on behalf of the prosecution:

- NIL -

List of witnesses examined on behalf of the defence:

- NIL -

List of documents and materials marked on behalf of the defence:

- NIL -

IX ADDL.C.M.M
Bengaluru.

Judgment pronounced in the Open Court (Vide separate order)

ORDER

Acting under Section 248(1) of Cr.P.C., accused No.1 and 2 are hereby acquitted of the offences punishable u/Sec. 326 and 504 r/w 34 of IPC.

The bail bonds of accused No.1 and 2 stands cancelled.

Item No.1 shown in PF No.144(A)/2018 shall be destroyed as worthless after the appeal period is over.

IX ACMM, Bengaluru.