

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO.271 OF 2013

BETWEEN:

MR. KALAPUTRA
S/O.VENKANAGOWDA,
R/AT. HARAPANNAHALLI,
HARAPANNAHALLI POST,
DAVANAGERE DISTRICT-583131.

...APPELLANT

(BY SRI. B.S. MURALI, ADV.)

AND:

1. STATE BY HARAPANAHALLI POLICE
REP. BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE-560001.
2. MR. MALTHESH
S/O. SAMBAIAH,
AGED ABOUT 35 YEARS,
3. MR. RAGHAVENDRA,
S/O. SAMBAIAH,
AGED ABOUT 26 YEARS,

RESPONDENT NO.2 & 3 ARE
R/O. ANJANEYA EXTENSION,
HARAPANAHALLI TALUK,
DAVANAGERE DISTRICT-583131.

...RESPONDENTS

(BY SRI. M. DIWAKAR MADDUR, HCGP FOR R1,
SRI. IJARI NAGARAJA, ADV. FOR R2 & R3.)

THIS CRL.A. IS FILED U/S. 397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 31.12.2008 PASSED BY THE JMFC, HARAPANAHALLI IN C.C.NO.669/2008 AND CONSEQUENTLY REMAND THE MATTER FOR FRESH TRIAL, FOR THE OFFENCE P/U/S 341, 504, 355, 323 R/W 34 OF IPC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 22.01.2026 AND COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT, DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

The appellant has preferred this appeal against the judgment of acquittal dated 31.12.2008 passed in C.C.No.669/2008 by the Judicial Magistrate First Class, Harapanahalli (for short "the trial Court").

2. For the sake of convenience, the parties herein are referred to as per their rank before the trial Court.

3. Brief facts leading to this appeal are that, the Sub-Inspector of Police, Harapanahalli Police Station submitted the charge sheet against the accused for the offence under Sections 341, 504, 323, 355 read with Section 34 of Indian Penal Code. It is alleged by the prosecution that on 05th August, 2008 at 11.00 am, when CW1-Kalaputra was constructing the house through labourers in Harappanahalli accused approached him, and with a common object wrongfully

restrained him to put-up construction and in this regard when CW1 was proceeding to police station to file a complaint, the accused abused CW1, CW7 and CW8 in filthy language and caught hold of the shirt of CW1 and assaulted him with slipper and also assaulted him with his hands and legs, thereby voluntarily caused simple hurt. Thus, the accused have committed the alleged offence.

4. After filing charge sheet, case was registered. Accused had appeared before the trial Court and enlarged on bail. The trial Court has framed the charges and same were read-over and explained to the accused. Having understood the same accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, in all 8 witnesses were examined as PW1 to PW8. Seven documents were marked as Exhibits P1 to P7. Two material objects were marked as MOs.1 and 2.

6. On closure of prosecution side evidence, statement under Section 313 of Cr.P.C was recorded. Accused have totally denied the evidence of prosecution witnesses. However, they did not choose to lead any defence evidence on their behalf.

7. Having heard the arguments on both sides, the trial Court acquitted the accused for the alleged offences. Being aggrieved by this judgment of acquittal, the appellant has preferred the Criminal Revision Petition before this Court in CrI.RP.No.642/2009. This Criminal Revision petition is converted as Criminal Appeal No.271/2013.

8. Learned counsel appearing on behalf of the appellant would submit that the trial Court has miserably failed to appreciate the evidence and documents on record in accordance with law and facts. The evidence on record, beyond all reasonable doubt, establishes the fact that on 05.08.2008 at about 11.30 a.m., when the appellant was in the process of repairing the structure, respondent Nos.2 and 3 approached him and prevented him from proceeding further. It is also borne out from the evidence that the respondent Nos.2 and 3 abused the complainant/appellant, threatened him with dire consequences and assaulted him with slipper. The assault has been corroborated by the medical certificate. Hence, there was no reason for the trial Court to disbelieve the evidence of the prosecution. The learned Judge has committed a grave mistake in disbelieving evidence of the independent witnesses PW3 and PW5. Nothing has been elicited during the cross-examination to

disbelieve their evidence. The trial Court has wrongly considered the evidence of PW4. The learned trial Judge has exceeded from its jurisdiction in observing that appellant has lodged a complaint out of his enmity with respondent Nos.2 and 3. To constitute an offence under Section 341 of IPC, one has to prove the fact of restraint. The evidence that the appellant has been assaulted, ipso facto, makes out a case that the appellant has been restrained when the evidence on record clearly speaks about the fact of the assault. The presumption needs to be drawn that the aggrieved party has been restrained from escaping the assault. Hence, the reasoning of the trial Court that there is no specific evidence to establish the ingredients of Section 341 of Indian Penal Code is improper and same is due to non-application of mind. The trial Court has committed a grave error in appreciating the evidence by reading in between the lines. The trial Court ought to have taken the evidence on record on its face value before arriving at a particular conclusion. The trial Court having not done so, has caused great injustice to the appellant. On all these grounds, it is sought for allowing this appeal.

9. Learned High Court Government Pleader appearing for respondent-State and the learned Counsel appearing for the

private respondents, would submit that the trial Court has properly appreciated the evidence on record in proper perspective. Absolutely, there are no materials to interfere with the impugned judgment of acquittal and sought for dismissal of the appeal.

10. Having heard the arguments and on perusal of materials, the following points would arise for my consideration:

1. Whether the trial Court is justified in acquitting the accused for the offence punishable under Section 341, 504, 355, 323 read with 34 of Indian Penal Code?
2. What order?

Regarding Point No.1:

11. Before appreciation of evidence and record, it is necessary to mention as to the judgments of the Hon'ble Apex Court in the Case of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOUDA RUDRAGAUDAR AND OTHERS v. STATE OF KARNATAKA reported in (2024)8 SCC 149; CHANDRAPPA v. STATE OF KARNATAKA reported in (2007)4 SCC 415; and H.D. SUNDARA v. STATE OF KARNATAKA

reported in (2023)9 SCC 581. In the case of H D SUNDARA (supra), the Apex Court has summarized the principles governing exercise of appellate jurisdiction while dealing with an appeal against judgment of acquittal under section 378 of Code of Criminal Procedure as under:

"8. ...8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to re-appreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after re-appreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

12. In the case of BABU SAHEBGOUDA RUDRAGOUDAR AND OTHERS (supra) it is observed that it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles. The same are:

1. That the judgment of acquittal suffers from patent perversity;

2. That the same is based on a misreading/omission to consider material evidence on record; and

3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

13. It is the case of the prosecution that on 05th August, 2008 when CW1-Kalaputra was near the construction site, accused having common object, wrongfully restrained CW1 and in this regard when CW1 was proceeding to police station to file a complaint, accused abused him in filthy language and also caught hold of the shirt of CW1, assaulted him with slipper and with his hands and legs voluntarily causing simple hurt. Thus, the accused has committed the alleged offences.

14. The genesis of the case arises from the complaint filed by the complainant as per Exhibit P1, in which it is stated as under:

"ನಾನು ಮಾನ್ಯ ಡಿ ವೈ ಎಸ್ ಪಿ ಸಾಹೇಬರು ಹೇಳಿದುದರಿಂದ ಇಂದಿನಿಂದ ಕೆಲಸ ಪ್ರಾರಂಭ ಮಾಡಿರುತ್ತೇನೆ. ಬೆಳಿಗ್ಗೆ ಸುಮಾರು 9 ರಿಂದ ಕೆಲಸ ಪ್ರಾರಂಭ ಮಾಡಿರುತ್ತೇನೆ. ನಂತರ ಸ್ವಲ್ಪ ಸಮಯದ ನಂತರ ಅಂದರೆ 11:30ರ ಸುಮಾರಿಗೆ ಮಲತೇಶ ಬಂದು ಕೆಲಸ ನಿಲ್ಲಿಸಿ. ಸ್ಟೇಷನ್ ಗೆ ಹೋಗಿ ಫೋಲೀಸ್ ಕರೆದುಕೊಂಡು ಬರುತ್ತೇನೆ ಎಂದು ಅವನ ತಮ್ಮ ರಾಘವೇಂದ್ರನಿಗೆ ಹೇಳಿ ಹೋದ ನಂತರ ಅವನು ನಮ್ಮ ಕೆಲಸಗಾರರಿಗೆ ಕೆಲಸ ನಿಲ್ಲಿಸಿ. ಇಲ್ಲದಿದ್ದರೆ ನಿಮಗೆ ಹೊಡೆಯುತ್ತೇನೆ ನಿಮ್ಮ ಮೇಲೆ ಕೇಸ್ ಮಾಡುತ್ತೇನೆ ಎಂದು ಹೆದರಿಸಿದನು. ಕೆಲಸಗಾರರು ತಮ್ಮ ಆತ್ಮ ರಕ್ಷಣೆಗಾಗಿ ನಾವು ಕೆಲಸ ಮಾಡುವುದಿಲ್ಲ ಎಂದು ಹೇಳಿದರು ನಾನು ಸ್ಟೇಷನ್ ಗೆ ಹೋಗಿ ಸಾಹೇಬರನ್ನು ಕರೆದುಕೊಂಡು ಬರುತ್ತೇನೆ ಎಂದು ಹೇಳಿ ಹೋಗುತ್ತಿರುವಾಗ ರಾಘು ಎಂಬುವನು ಅಪಾಚ್ಯ ಶಬ್ದಗಳಿಂದ ಬೈದು, ನನ್ನ ಬಟ್ಟೆಯನ್ನು ಹರಿದು, ಚಪ್ಪಲಿಯಿಂದ ಹೊಡೆದು, ಹೊಡೆದು ಎಳೆದಾಡಿ ನೆಲಕ್ಕೆ ಉರುಳಿಸಿ ಹೊಡೆಯುತ್ತಿದ್ದರು ಬಿಡಿಸಲು ಬಂದವರಿಗೆ ನೀವು ಬಿಡಿಸಿದರೆ ನಿಮ್ಮನ್ನು ಹೊಡೆಯುವುದಾಗಿ ಹೆದರಿಸಿದ್ದರಿಂದ ಕೆಲವರು ಬಿಡಿಸಲು ಬಂದುದರಿಂದ ಅವರು ಹಿಂದೆ ಸರಿದರು. ನನ್ನ ಅಂಗಿಯೂ ಹರಿದು ಹೋಗಿ ನನ್ನ ಎಡಗೈ ಮತ್ತು ಬಲಗೈನಲ್ಲಿ ತೆರೆದ ಗಾಯಗಳು ಆಗಿರುತ್ತವೆ ಕಾರಣ ಅವನನ್ನು ತಮ್ಮ ರಾಣಿಗೆ ಕರೆಸಿ ಸೂಕ್ತ ಶಿಕ್ಷೆ ಕೊಟ್ಟು ಒಬ್ಬಂಟಿಗರಾದ ನಮ್ಮನ್ನು ರಕ್ಷಿಸಬೇಕೆಂದು ತಮ್ಮಲ್ಲಿ ಕೇಳಿಕೊಳ್ಳುತ್ತೇನೆ. ಈ ಘಟನೆಯು ಹಠಾತ್ತನಾಳೆ ಪಟ್ಟಣದ ಆಂಜನೇಯ ಬಡಾವಣೆಯ ನಮ್‌ಮ ಮನೆಯ ಹತ್ತಿರ ನಡೆದಿರುತ್ತದೆ. "

15. On the basis of this complaint, Harappanahalli police have registered the case in Crime No.139/2008 and submitted the FIR to the Court on 06.08.2008 at 12.10 noon as per Exhibit P7. The complainant-Kalputra examined as PW1. He

has deposed his evidence as stated in Exhibit P1. Further, he has deposed as to the treatment taken by him in Harappanahalli Government Hospital. He has deposed in his evidence that he has put his signature on Exhibit P2 in the police station. In this regard, he is treated as hostile witness and cross-examined by the Assistant Public Prosecutor with the permission of the Court, and in the cross-examination also he has clearly stated that he has put his signature on Exhibit P2 in the police station.

16. PW2-Manjunatha has deposed as to the mahazar conducted by the police as per Exhibit P2.

17. PW3-Parsappa has deposed in his evidence that at about four months back one day morning 11.30 a.m. the clash took place between the accused and CW1 regarding construction of house near his house. Accused caught hold of shirt of CW1, and pushed him and assaulted with slipper. CW1 sustained injuries on his head. He identified the slipper as per MO2.

18. PW4-Beemappa has deposed as to the mahazar conducted by the police as per Exhibit P2.

19. PW5-Ajjayya said to be the eye-witness, has deposed in his evidence that on 05th August, 2008 in the morning 11.30 am, the clash took place in front of the house of CW1. Accused No.2 assaulted to CW1 with slipper and tore the shirt of CW1.

20. PW6-Abdul and PW7-Ahmed said to be the eye-witnesses to this incident, have not supported the case of the prosecution.

21. PW9-G.K.Nandakumar, Head constable has deposed as to the investigation conducted by him.

22. During the course of cross-examination of PW1 has clearly admitted as to the civil dispute between them since 2001 with regard to the site at Harihar which is pending before the Court at Harihar. He has also admitted that since there is a civil dispute, many a times police have issued an endorsement as to the complaint filed by them.

23. During the course of cross-examination of PW2, he has clearly admitted that the accused has filed a complaint against him regarding the site.

24. PW3-Parsappa has deposed in his evidence that he cannot say the date of incident and he has admitted that CW2 is his relative. Further, he has admitted that his house is about 100 meters away from the crime spot.

25. PW5-Ajjayya has deposed in his cross-examination that when he visited the spot, number of people gathered there. However, he cannot say the name of other persons who are gathered there.

26. A careful examination of the entire evidence placed before this Court, it is clear that the evidence of PW1 has not been substantiated by any independent witnesses. The other witnesses who have deposed in favour of the prosecution, are close relatives of the complainant. The other independent witnesses have not supported the case of the prosecution. Admittedly, there is an enmity between the accused and the complainant since 2001 regarding site dispute. Under these circumstances, it is not safe to rely upon the interested testimony of PW1 and other interested witnesses. Additionally, Exhibit P6-wound certificate reveals that the injured Kalaputra was admitted with history of assault on 05.08.2008 and in the wound certificate, Doctor has found the following injuries:

1. An abrasion wound on left elbow joint - colour Brown
2. Pain and tenderness on right elbow joint
3. A scratch mark on left thumb.

27. The Doctor has opined that injuries are simple in nature. In the wound certificate, the medical officer has not disclosed the name of the accused or the weapon used for the commission of offence. The doctor who has examined the injured has not been examined before this Court. If really the accused had assaulted CW1 with slipper, same would have been disclosed before the medical officer and in-turn medical officer would have shown the same in the wound certificate- Exhibit P6.

28. The Investigating Officer has not explained anything as to non-mentioning of the weapon used for the commission of offence, so also name of the accused in the wound certificate.

29. The trial Court has properly appreciated the evidence on record in accordance with law and facts. Even on re-appreciation of the evidence on record, I do not find any legal or factual error in the judgment of acquittal passed by the trial Court. Hence, I answer point No.1 in the negative.

Regarding Point No.2:

30. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

Appeal is dismissed.

**Sd/-
(G BASAVARAJA)
JUDGE**

Inn