



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE H.P.SANDESH

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO.967 OF 2018

C/W.

CRIMINAL APPEAL NO.1890 OF 2017

IN CRL.A NO.967/2018:

BETWEEN:

1. PUTTAIAH
S/O BYRAIAH
R/O MALLAPURA VILLAGE
AREHALLI HOBLI, BELUR TALUK
HASSAN DISTRICT-573 201.

...APPELLANT

(BY SRI. ANIRUDH CHAMUNDA, ADVOCATE –
[AUTHORIZED BY HCLSC])

AND:

1. JAVARAIAH
S/O BYRAIAH
AGED ABOUT 55 YEARS
2. BOOMESH S/O JAVARAIAH
AGED ABOUT 35 YEARS

THE APPELLANT NOS.1 AND 2 ARE
R/O MALLAPURA VILLAGE
AREHALLI HOBLI, BELUR TALUK
HASSAN DISTRICT-573 201.





3. PRASANNA
S/O BASAVIAIAH
AGED ABOUT 35 YEARS
R/O ANKIHALLI
BIKKODU HOBLI, BELUR TALUK,
HASSAN DISTRICT-573 201.
4. STATE BY AREHALLI P.S.
BELUR TALUK, HASSAN DISTRICT
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING
BENGALURU-560 001.

...RESPONDENTS

(BY SRI. C.H. JADHAV, SENIOR COUNSEL FOR
SRI. L. SRINIVASA BABU, ADVOCATE FOR R1 TO R3;
SMT. RASHMI PATEL, HCGP FOR R4)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 372 OF CR.P.C PRAYING TO MODIFIED THE JUDGMENT DATED 16.10.2017, PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE AT HASSAN, IN S.C.NO.225/2013 BY CONVICTING THE ACCUSED/RESPONDENTS FOR THE OFFENCES PUNISHABLE UNDER SECTION 307 R/W SECTION 34 OF IPC.

IN CRL.A NO.1890/2017:

BETWEEN:

1. JAVARAIAH
S/O BYRAIAIAH
AGED ABOUT 53 YEARS
MALLAPURA VILLAGE
AREHALLI HOBLI
BELUR TALUK.
2. BOOMESH
S/O JAVARAIAH
AGED ABOUT 30 YEARS



MALLAPURA VILLAGE
AREHALLI HOBLI
BELUR TALUK.

3. PRASANNA S/O BASAVAIAH
AREHALLI, BIKKODU HOBLI
BELUR TALUK.

...APPELLANTS

(BY SRI. C.H. JADHAV, SENIOR COUNSEL FOR
SRI. L. SRINIVASA BABU, ADVOCATE)

AND:

1. THE STATE
BY AREHALLI POLICE
BELURU TALUK
HASSAN DISTRICT-573201
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BENGALURU-560 001.

...RESPONDENT

(BY SMT. RASHMI PATEL, HCGP)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 16.10.2017 PASSED BY THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, HASSAN IN S.C.NO.225/2014 - CONVICTING THE APPELLANT/ACCUSED NO.1 TO 3 FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 326, 504 AND 506 R/W SECTION 34 OF IPC.

THESE APPEALS COMING ON FOR FINAL HEARING THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH
and
HON'BLE MR. JUSTICE VENKATESH NAIK T



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

Heard learned counsel for appellant-complainant, learned Senior counsel for accused Nos.1 to 3 and learned High Court Government Pleader for the respondent-State.

2. These two appeals are filed by the complainant-victim as well as the appellants questioning the acquittal for the offence punishable under Sections 307 of IPC by the victim and also the accused persons questioning the order of conviction and sentence passed for the offence punishable under Sections 326, 504 and 506 read with Section 34 of IPC.

3. The factual matrix of case of the prosecution is that as per the complaint, the statement of the injured was recorded on 20.02.2012 and in the complaint-Ex.P1, it is stated that on 19.02.2012 at 5.30 p.m., when the injured P.W.1 questioned lifting of tank water for cultivation which was reserved for the purpose of drinking of cattle, immediately, when the question was made by P.W.1, accused No.1 assaulted with club on his left portion of the head and his son Boomesh and Prasanna came and the said Boomesh assaulted with



chopper on the right ear and accused No.3 assaulted with his hands on his right ear and also his right eye. At that time, when the complainant made hue and cry, the witnesses, who have witnessed the incident came and pacified the galata and the accused persons left the spot disclosing that they would kill him some other day. Immediately, the witnesses Suresh, Raju and Hemanthkumar and his wife shifted him to Belur Hospital, thereafter, he was referred to Hassan, then he was referred to NIMHANS Hospital. It is also the case of the prosecution that based on the complaint, mahazar was drawn in terms of Ex.P2 and so also as per Exs.P3 to P5, statement of the witnesses was also recorded and collected the wound certificate and all material from the hospital i.e., MLC, summary sheet, case sheet, nurse record, lab report, treatment charge, discharge summary, OPD card, scan report, report and MLC copy which are marked as Exs.P13 to P22.

4. The prosecution after completion of the investigation filed the charge sheet for the offence punishable Sections 324, 326, 504, 506 and 307 read with Section 34 of



IPC. The accused persons were secured and accused did not plead guilty and claims trial.

5. Hence, the prosecution mainly relies upon the evidence of P.Ws.1 to 15 and the documents Exs.P1 to P22 and M.O.1 and M.O.2 are also marked. During the cross-examination, confronted the documents Exs.D1 to D6.

6. The Trial Judge, after recording the evidence of prosecution witnesses, subjected the accused persons for 313 statement and incriminating evidence was denied and thereafter, the Trial Judge having considered both oral and documentary evidence available on record comes to the conclusion that it is not a case for 307 of IPC. However, taking note of nature of injuries i.e., grievous injury of fracture comes to the conclusion that it comes within the purview of Section 326 of IPC and also comes to the conclusion that the accused persons have abused in filthy language and invoked Sections 506 and 504 of IPC for causing intimidation and life threat. Hence, the learned Trial judge while considering the material on record having convicted the accused imposed simple imprisonment of 3 years with fine of Rs.5,000/- each for the



offence punishable under Section 326 read with Section 34 of IPC and sentenced to pay fine of Rs.500/- each for the offence punishable under Section 504 read with Section 34 of IPC and so also sentenced to pay fine of Rs.1,000/- each for the offence punishable under Section 506 read with Section 34 of IPC and also imposed default sentence. Being aggrieved by the conviction, these two appeals are filed by the complainant-victim as well as the accused persons.

7. Learned counsel for the victim-complainant in Crl.A.No.967/2018 would vehemently contend that the Trial Court committed an error in making an erroneous observation in paragraph No.14 that the victim has not whispered regarding the attempt made by the accused to kill him and the said observation is erroneous. The counsel would vehemently contend that having considered the nature of injuries, the the wound certificate is very clear that injury No.1 is grievous in nature and Ex.P20-scan report issued by the Hassan CT Scan Centre clearly states undisplaced fractures of right frontal and squamous temporal bone. The counsel also brought to notice of this Court document of Ex.P21 i.e., Nimhans hospital record,



wherein it is categorically stated that there was fracture. Hence, the Trial Court ought to have taken note of material on record and committed an error in acquitting the accused for the offence punishable under Section 307 of IPC. Hence, prayed this Court to invoke Section 307 of IPC.

8. The learned High Court Government Pleader appearing for respondent-State also reiterates the grounds which have been urged by learned counsel appearing for the victim-complainant and brought to notice of this Court document of wound certificate Ex.P9 and so also the opinion given by the Doctor in terms of Ex.P10. In the wound certificate Ex.P9, it is stated that injury No.1 is grievous in nature and opinion of the Doctor is very clear that the weapon which was used i.e., machete would cause the death of a person, if force is used. Hence, it is a clear case of Section 307 of IPC and Trial Court committed an error

9. Per contra, learned Senior counsel for appellants-accused would vehemently contend that it is a case of planting accused Nos.1 to 3. He would vehemently contend that at the first instance, though injured was taken to Belur Hospital and



MLC was also done, name of the assailants is not mentioned. Hence, it is clear that the accused Nos.1 to 3 are implicated due to previous ill-will. He would further submit that there was ill-will between the parties with regard to earlier Grama Panchayath election and when the injured was taken to different hospitals i.e., Belur Hospital, Hassan or NIMHANS not stated the name of the assailants. Hence, Trial Court ought to have taken note of the same while considering the material available on record. He would vehemently contend that evidence of P.W.1, P.W.2 and P.W.4 are not consistent and there is discrepancy in the evidence of these witnesses and when there is inconsistent evidence available before the Court, the Trial Court ought not to have convicted even for the offence punishable under Section 326 of IPC. He would further submit that there are no ingredients of offence punishable under Section 504 of IPC and wrongly invoked the said Section and none of the witnesses speak about insulting P.W.1 by using filthy language and committed an error. He would also submit that even for the offence under Section 506 of IPC, there is no material available before the Court and committed an error. He would further submit that the very argument of the learned



counsel for the victim-complainant as well as learned High Court Government Pleader for the respondent-State that it is a case for invoking Section 307 of IPC cannot be accepted and also there is an improvement in the evidence of P.W.1 and though eye witnesses have not spoken anything in the chief-evidence and only during the cross-examination when the case was set down for cross-examination and before commencement of cross-examination of P.W.1, P.W.2 and P.W.4 made improvement in the evidence that if they would have not pacified the accused persons, they would have taken the life and this improvement is very clear that prosecution mainly relies upon this evidence. Hence, question of invoking Section 307 of IPC does not arise.

10. Having heard learned counsel for appellant-complainant, learned Senior counsel for accused Nos.1 to 3 and learned High Court Government Pleader for the respondent-State, the points that would arise for consideration of this Court are:

- (i) Whether the victim-complainant and the respondent-State have made out a case to



invoke Section 307 of IPC and it requires conviction for the offence punishable under Section 307 of IPC with appropriate sentence?

- (ii) Whether the appellants/accused Nos.1 to 3 have made out a case for acquittal as contented in the Crl.A.No.1890/2017?
- (iii) What order?

Point Nos.(i) and (ii):

11. Having discussed the genesis of the crime as attributed by the prosecution and also considering the material available on record, particularly Ex.P1-complaint, a statement is made by the injured in the hospital at Hassan when he was sent back to Hassan from NIMHANS and his statement was not recorded either in the first hospital at Belur and also even NIMHANS in the presence of the Doctor. But, his statement was recorded only when he came back to the Hassan Hospital, where he took treatment as inpatient from 20.02.2012 to 29.02.2012 that too, at 10.00 p.m. and the statement was recorded by HC-99 at the first instance in Crime No.36/2012 invoking Sections 504, 324 and 506 read with Section 34 of IPC and not invoked either Section 307 of IPC or Section 326 of



IPC. Having considered the material available on record, the Investigating Officer invoked the offence under Sections 326 as well as Section 307 of IPC. Having perused Ex.P1, there is no material before the Court that injured made the statement that with an intention to take away the life, they inflicted the injury with the club and machete, the same is taken note of by the Trial Court in paragraph No.14 while appreciating the evidence.

12. No doubt, learned counsel for the appellants-accused also brought to notice to this Court that there is an improvement in the evidence of P.W.1, P.W.2 and P.W.4 with regard to invoking Section 307 of IPC, we have also perused the evidence available on record and they have not spoken anything when they have been examined in chief with regard to invoking Section 307 of IPC is concerned. Having considered the material on record, when the eye witnesses P.W.1, P.W.2 and P.W.4 have not spoken anything about with an intention to commit the murder, they inflicted the injury, we do not find any ground to invoke the offence under Section 307 of IPC and there must be an intention to invoke Section 307 of IPC and the nature of injuries are immaterial. The Court also has to take



note of *mens rea* while appreciating the material to invoke the offence under Section 307 of IPC and whether such *mens rea* is there or not, there is no evidence that with an intention to take away the life only, the accused inflicted injury, no material before the Court. When no material is available before the Court and none of the witnesses have spoken about *mens rea* of the assailants, question of invoking Section 307 of IPC does not arise.

13. Now coming to the aspect of evidence available before the Court, P.W.1, P.W.2 and P.W.4 have categorically deposed before the Court with regard to the incident is concerned. The P.W.1-injured in the complaint as well as in the evidence categorically deposed that when he found the accused persons lifting water from the pond for plantation, he questioned that the same is meant for public use and for cattle, immediately the accused persons enraged and inflicted injury with club as well as machete. The specific overt act allegation is made against accused Nos.1 and 2 that they inflicted injury with weapons club and machete. But, only allegation made



against the accused No.3 is that he inflicted the injury with hand.

14. It is also important to note that in the wound certificate, the name of accused Nos.1 and 2 is specifically mentioned. But, in the MLC copy at Ex.P22, the name of another person is not mentioned, but stated as another person. When such being the case and even having considered the contradictions in the evidence of P.W.1, P.W.2 and P.W.4, general omnibus statement is made by P.W.4 that accused No.3 assaulted with hands. But, P.W.2 says that he assaulted with hand and P.W.1 deposed before the Court that accused No.3 assaulted with hand on the right ear and right eye. Hence, there are material contradictions with regard to overt act of accused No.3. When such material is available before the Trial Court, the Trial Court committed an error in appreciating the evidence of the prosecution witnesses and very presence of accused No.3 is doubtful. Hence, the trial Judge committed an error in convicting the accused No.3. Therefore, it requires interference of this Court in respect of accused No.3.



15. Now coming to the aspect of accused Nos.1 and 2 is concerned, it has also emerged during the course of evidence that P.W.1, on account of injuries sustained by him when he was taken to Belur hospital, Hassan and NIMHANS, he was not having consciousness. But, his evidence is very clear that he got consciousness when he was at NIMHANS Hospital and he was immediately sent back to Hassan and statement was made on the very next day i.e., on 20.02.2012, wherein he attributed the role of the accused persons. But, the material available before the Court, particularly the wound certificate-Ex.P9 issued by the Doctor and also the evidence of the Doctor-P.W.13 and P.W.15 is very clear that he had sustained grievous injuries as per Ex.P9 i.e., injury No.1 cut-lacerated wound over right scalp 5 x ½ x 1 cm. and the prosecution also relies upon Ex.P10- opinion given by the Doctor that machete would cause the death of a person. But, the evidence available before the Court is that prosecution relies upon the document Ex.P20. No doubt, there is a CT scan report, but not produced x-ray before the Court to come to a conclusion that he had suffered fracture and except, Ex.P20-CT scan report, no other material is available before the Court. No doubt, the Ex.P20-Court scan



report provides the impression undisplaced fractures of right frontal and squamous temporal bone and in the absence of CT scan, as held by Division Bench of this Court in Crl.A.No.530/2002 dated 03.03.2010, in the absence of x-ray proving the fracture, question of invoking either Section 326 of IPC or Section 307 of IPC does not arise. However, brought to notice of this Court offence under Section 324 of IPC.

16. Having considered the material available on record, in the evidence of P.W.1, P.W.2 and P.W.4, nothing is elicited from the said witnesses that there was enmity prior to this incident i.e., on 19.02.2012 and in the absence of any answer elicited from the mouth of the witnesses P.W.1, P.W.2 and P.W.4 with regard to earlier animosity, this Court cannot disbelieve the evidence of these witnesses. Though an attempt is made by learned Senior Counsel for appellants/accused before the Court that there was political enmity with regard to Panchayath election, the same is also not found in the cross-examination of any of the witnesses, except suggesting that he was a member of Grama Panchayath and the same is not admitted and prior enmity even with regard to election issue is



also not found before the Court. Having considered the nature of injuries that is sustained by P.W.1 and also consistent evidence of P.W.2 and P.W.4 with regard to the incident is concerned, even in the cross-examination also, when a suggestion was made that a scuffle has taken place and at that time, P.W.1 had sustained the injuries, the same was admitted by defence. When such being the case, when the incident is admitted and when the suggestion was made that during the scuffle, injury is sustained by P.W.1, it is very clear that incident is not in dispute.

17. Having considered the material on record and the incident has taken place in the year 2012 almost 14 years ago and accused Nos.1 and 2 and P.W.1 are relatives, neighbouring landowners, who belong to the same village and agriculturalist and there was no previous ill-will and incident has taken place on a sudden provocation when P.W.1 had questioned regarding lifting of water from the pond and there was also a case and counter case and having taken note of all these factors into consideration, it is not a case for imposing sentence and instead, taking note of the fact that injured was shifted at the



first instance to Belur Hospital, then to Hassan and thereafter to NIMHANS and considering the fact that he was admitted in Hassan Hospital for almost 10 days and took treatment as an inpatient and incurred expenses, this Court deems it appropriate to compensate the same by imposing fine of Rs.1,50,000/- each which would meet the ends of justice.

18. No doubt, the Court while imposing sentence has to take note that sentence must commensurate with the gravity of the offence and this Court having discussed with regard to the circumstances under which the incident has taken place, we deem it appropriate to compensate the same by imposing fine amount. Hence, we answer point Nos.(i) and (ii) accordingly.

Point No.(iii):

19. In view of the discussion made above, we pass the following:

ORDER

- (i) The appeal filed by victim-complainant in Crl.A.No.967/2018 is dismissed.
- (ii) The appeal filed by the appellants-accused in Crl.A.No.1890/2017 is allowed-in- part.



- (iii) The conviction for the offence punishable under Section 326 read with Section 34 of IPC is set aside and modified bringing the same for the offence punishable under Section 324 read with Section 34 of IPC.
- (iv) Instead of imposing sentence, accused Nos.1 and 2 are ordered to pay fine of Rs.1,50,000/- each within four weeks before the Trial Court which is payable to P.W.1 on proper identification.
- (v) The accused No.3 is acquitted for the charges levelled against him.
- (vi) In view of acquittal of accused No.3, the Trial Court is directed to refund the fine amount, if any deposited on proper identification.
- (vii) The amount, if any deposited by accused Nos.1 and 2 shall be adjusted towards the fine imposed and the remaining amount deposited before Trial Court.

Sd/-
(H.P.SANDESH)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE