



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

CRIMINAL APPEAL NO. 710 OF 2015 (C)

BETWEEN:

DODDEGOWDA
AGED ABOUT 45 YEARS,
S/O SANNEGOWDA,
R/O GUNDATTURU VILLAGE,
H.D KOTE TALUK,
MYSURU DISTRICT 571114.

...APPELLANT

(BY SRI. TEJAS N., ADVOCATE FOR
SRI. K.G. KUMARA., ADVOCATE)

AND:

STATE OF KARNATAKA
BY BEECHANAHALLI POLICE STATION,
MYSURU DISTRICT,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE 560001

...RESPONDENT

(BY SRI.VINAY MAHADEVAIAH.,HCGP)

THIS CRL.A. IS FILED U/S 374(2) CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 23.4.2015, PASSED BY THE VI ADDL. DIST. & SPL JUDGE, MYSURU, IN SPL.CASE.NO.69/2013- CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCES P/U/S 504,324,448,323,354 OF IPC AND U/S 3(1)(x) &(xi) OF SC/ST (POA) ACT 1989; THE APPELLANT/ACCUSED IS SENTENCED TO UNDERGO R.I. FOR 6 MONTHS AND ALSO TO PAY FINE OF





RS.1000/- IN DEFAULT, SHALL UNDERGO R.I. FOR FURTHER 2 MONTHS, FOR THE OFFENCE P/U/S 504 OF IPC; FURTHER, THE APPELLANT/ACCUSED IS SENTENCED TO UNDERGO R.I. FOR 9 MONTHS AND ALSO TO PAY FINE OF RS.3000/- IN DEFAULT, SHALL UNDERGO R.I. FOR FURTHER 3 MONTHS, FOR THE OFFENCES P/U/S 324 OF IPC; FURTHER, THE APPELLANT/ACCUSED IS SENTENCED TO UNDERGO R.I. FOR 3 MONTHS AND ALSO TO PAY FINE OF RS.500/- IN DEFAULT, SHALL UNDERGO R.I. FOR FURTHER 1 MONTH, FOR THE OFFENCE P/U/S 448 OF IPC; FURTHER, THE APPELLANT/ACCUSED IS SENTENCED TO UNDERGO R.I. FOR 3 MONTHS AND ALSO TO PAY FINE OF RS.500/- IN DEFAULT, SHALL UNDERGO R.I. FOR FURTHER 1 MONTH, FOR THE OFFENCE P/U/S 323 OF IPC AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL JUDGMENT

This appeal is by the accused being aggrieved by the Judgment of conviction and Order of Sentence dated 23.04.2015 in Spl.Case.No.69/2013 on the file of the VI Additional District and Special Judge at Mysuru, wherein the accused/appellant herein has been convicted and sentenced for the offences punishable under Sections 504, 324, 448, 323, 354 of the Indian Penal Code, 1860 [for short, the '**IPC**'] and Section 3(1)(x) and (xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 [for short, the '**Act**'].



2. It is the case of the prosecution that a complaint as per Exhibit P.3 came to be filed by one Venkata Swamy which reads as under:

"ಸ್ವಾಮಿ ನಾನು ಕೂಲಿ ಮಾಡಿಕೊಂಡು ಹಾಗೂ ಜಮೀನು ಕೆಲಸ ಮಾಡಿಕೊಂಡು ಹೆಂಡತಿ ಮಕ್ಕಳ ಜೊತೆ ವಾಸವಾಗಿರುತ್ತೇನೆ, ಕಳೆದ ವರ್ಷ ನಮ್ಮೂರಿನ ಸ್ವಾಧೀನಗೊಂಡ ಮಗ ದೊಡ್ಡಗೌಡನ ಎರಡು ಎಕರೆ ಜಮೀನನ್ನು ನಾನು ಗುತ್ತಿಗೆ ಮಾಡಿಕೊಂಡಿದ್ದು ಎಂಟುಸಾವಿರ(8) ರೂಪಾಯಿಗೆ ಮಾತಾಡಿಕೊಂಡಿದ್ದು ಅದರಲ್ಲಿ ಅವರಿಗೆ 7 ಸಾವಿರ ರೂಪಾಯಿ ಕೊಟ್ಟಿದ್ದು 1 ಸಾವಿರ ರೂಪಾಯಿ ಬಾಕಿ ಉಳಿಸಿಕೊಂಡಿದ್ದೆ. ಮುಂದಿನ ಭಾನುವಾರ ಉಳಿದ 1 ಸಾವಿರ ರೂಪಾಯಿಯನ್ನ ಕೊಡುತ್ತೇನೆಂದು ಟೈಮ್ ತೆಗೆದುಕೊಂಡಿದ್ದೆ. ಈ ದಿನ ದಿನಾಂಕ 14.03.2013 ರಂದು ಸಂಜೆ ಸುಮಾರು 4.30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ, ನಾನು ನಮ್ಮೂರಿನ ಅಂಚೆ ಮಾರಮ್ಮನ್ನು ದೇವಸ್ಥಾನದ ಬಳಿ ನಾನು ಮತ್ತು ಕುಮಾರ ಎಂಬ ಇಬ್ಬರೂ ಮಾತನಾಡುತ್ತ ಇದ್ದಾಗ ಅಲ್ಲಿಗೆ ದೊಡ್ಡಗೌಡ ಬಂದು ನನ್ನನ್ನು ಬಾಕಿ ಹಣಕೊಡು ಎಂದು ಕೇಳಿದ ಆಗ ನಾನು ಇನ್ನೂ ಭಾನುವಾರದ ತನಕ ಟೈಮ್ ಇದೆ ಕೊಡುತ್ತೇನೆಂದು ಹೇಳಿದೆ, ಆಗ ದೊಡ್ಡಗೌಡ ಈಗಲೇ ಕೊಡೊ ಬೋಲಿಮಗನೇ, ಸೂಳೇಮಗನೇ, ಹೊಲಯ ನಿಮ್ಮ ಅವನಾಕ್ಕಾಯ ನಿಮ್ಮ ಹೆಂಡತಿನಾಕ್ಕಾಯ ಎಂದು ಬೈಯ್ದು ಅಲ್ಲಿ ಬಿದ್ದಿದ್ದ ಒಂದು ಮರದ ರೀಪರ್ ಪಟ್ಟಿಯನ್ನು ತೆಗೆದುಕೊಂಡು ನನ್ನ ಎಡಭುಜದ ಹಿಂಭಾಗಕ್ಕೆ ಹೊಡೆದು ನಂತರ ಅದೇ ರೀಪರ್ 'ಪಟ್ಟಿಯಲ್ಲಿ ಎಡ ಮಧ್ಯದ ಬೆರಳಿಗೆ ಹೊಡೆದು ರಕ್ತಗಾಯ ಪಡಿಸಿದ, ಆಗ ನನ್ನ ಜೊತೆ ಕುಮಾರ ಜಗಳ ಬಿಡಿಸದ ನಾನು ನಮ್ಮ ಮನೆಗೆ ಬಂದು ಏಟಾಗಿದ್ದ ಬೆರಳಿಗೆ ನಮ್ಮ ಹೆಂಡತಿ ನಾಗಮ್ಮನಿಂದ ಔಷಧಿ ಹಾಕಿಸಿಕೊಳ್ಳುತ್ತಿದ್ದೆ. ಆಗ ಅಲ್ಲಿಗೂ ಸಹ ದೊಡ್ಡಗೌಡ ಬಂದು ದುಡ್ಡುಕೊಡು ಎಂದರೆ ಮನೆಗೆ ಬಂದಿದ್ದೀಯಾ ಬೋಲಿಮಗನೇ ನಿನಗೆ ಕೊಬ್ಬು ಜಾಸ್ತಿಯಾಗಿದೇ ಎಂದು ಬೈಯುತ್ತಿದ್ದಾಗ ನನ್ನ ಹೆಂಡತಿ ನಾಗಮ್ಮ ಮನೆ ಮುಂದೆ ಬೈಯುತ್ತಾ ನಿಂತಿದ್ದ ದೊಡ್ಡಗೌಡನನ್ನು ಈಗಲೇ ದುಡ್ಡು ಕೊಡು ಎಂದರೆ ಎಲ್ಲಿ ಕೊಡೋಣ ಭಾನುವಾರ ಕೊಡುತ್ತೇನೆಂದು ಹೇಳಿ ಜಗಳ ಮಾಡಬೇಡ ಎಂದು ಕಾಲು ಹಿಡಿದುಕೊಳ್ಳಲು ಹೋದಾಗ ದೊಡ್ಡಗೌಡ ನನ್ನ ಹೆಂಡತಿ ಹೊಟ್ಟೆಗೆ ಕಾಲಿನಿಂದ ಒದ್ದು ತಲೆಯ ಜುಟ್ಟನ್ನು ಹಿಡಿದು ಎಳೆದಾಡುತ್ತಿದ್ದರು. ಆಗ ನಮ್ಮ ಗ್ರಾಮದ ಕರಿಯಯ್ಯ ಎಂಬವರು ಜಗಳ ಬಿಡಿಸಿ ಸಮಾಧಾನ ಮಾಡಿದರು. ನಂತರ ನಮ್ಮೂರಿನ ನಂಜುಂಡಯ್ಯನ ಮಗ ಶಿವನಂಜಯ್ಯ ಏಟಾಗಿದ್ದ ನನ್ನನ್ನು ಮತ್ತು ನನ್ನ ಹೆಂಡತಿ ನಾಗಮ್ಮಳನ್ನು ಯಾವುದೋ ಜೀಪಿನಲ್ಲಿ ಕರೆದುಕೊಂಡು ಬಂದು ಹೆಚ್.ಡಿ.ಕೋಟೆ ಆಸ್ಪತ್ರೆಗೆ ದಾಖಲು ಮಾಡಿರುತ್ತಾರೆ, ನಾವು ಈಗ ಚಿಕಿತ್ಸೆ ಪಡೆಯುತ್ತಿದ್ದು ವಿನಾ ಕಾರಣ ದುಡಿನ ವಿಚಾರಕ್ಕೆ ನಮ್ಮ ಮೇಲೆ ಗಲಾಟೆ ತೆಗೆದು ಹೊಡೆದು ಜಾತಿನಿಂದನೆ ಮಾಡಿದ ದೊಡ್ಡಗೌಡನ ಮೇಲೆ ಕಾನೂನು ರೀತ್ಯಾ ಕ್ರಮವನ್ನು ಕೈಗೊಳ್ಳ ಬೇಕೆಂದು ತಮ್ಮಲ್ಲಿ ಬೇಡಿಕೊಳ್ಳುತ್ತೇನೆ."



Upon which, the respondent /Police registered a case in Crime No.40/2013 against the accused/appellant for the offences punishable under sections 504, 324, 448, 323, 354 of IPC and section 3(1)(x) and (xi) of the Act. Investigation was conducted, charge sheet was filed and charges were framed. Since the accused pleaded not guilty and sought to be tried, the matter was set down for trial. The prosecution has examined 12 witnesses, PWs.1 to 12 and exhibited 8 documents Exs.P1 to P8 and marked one Material Object Mo.1. The statement of the accused was recorded under Section 313 of the Criminal Procedure Code. He has denied the evidence brought against him by the prosecution. The trial Court framed the following points for its consideration:

- "1. *Whether the prosecution proves beyond all reasonable doubt that on 14.03.2013 at about 4.30 p.m. in front of Anchemaramma Temple when CW1 Venkataswamy was sitting there and then accused went there and demanded money from him and then he told that he had one week time pay the amount then accused abused him in filthy and indecent language and insulted him and provoked him to commit breach of peace and thereby committed an offence punishable under Sec.504 of I.P.C.?*
2. *Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time and place accused voluntarily caused hurt to CW1 by assaulting him with reaper piece to the right*



shoulder and to the middle finger of the left hand and caused bleeding injuries and thereby committed an offence punishable under Sec.324 R/w.34 of I.P.C.?

3. *Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time and place, accused committed house tress pass by entering into the house of CW.1 which is used as human dwelling house with an intention to commit offence of assault and thereby committed an offence punishable under Sec.448 of I.P.C.?*
4. *Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time and place, accused voluntarily caused hurt to CW.2 by holding her tuft and kicked her all over her body and caused simple injuries and thereby committed an offence punishable under Sec.323 of I.P.C.?*
5. *Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time and place, accused caught hold of the tuft of CW.2, a woman and dragged her, intending to outrage her modesty and thereby committed an offence punishable under Sec.354 of I.P.C.*
6. *Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time and place, accused belongs to upper caste i.e., Vokkaliga Community, knowingly fully well that, CW.1 & 2 belongs to Schedule Caste, abused them by taking their caste name with an intention to insult or humiliate them in the public view and thereby committed an offence punishable under Sec.3(1)(X) of S.C. and S.T. (P.O.A.) Act, 1989?*
7. *Whether the prosecution proves beyond all reasonable doubt that on the aforesaid date, time and place, accused belongs to upper caste ie., Vokkaliga Community, knowingly fully well that, CW.2 belongs to Schedule Caste, kicked her with an intention to dishonour her and thereby committed offence punishable under an Sec.3(1)(XI) of S.C. and S.T. (P.O.A.) Act, 1989?*



8. *What order?"*

3. On appreciation of the evidence, the trial Court answered Point Nos.1 to 7 in the affirmative and consequently passed the impugned judgment of conviction and order of sentence as under:

"ORDER

The accused is convicted under sec. 235(2) of Cr.P.C. for the offences punishable U/s 504, 324, 448, 323, 354 of IPC and U/s 3 (1)(x) & (xi) OF SC/ST (POA) Act 1989.

The bail bond of accused and his surety stands cancelled.

For hearing on sentence.

ORDER ON SENTENCE

"Heard the accused and his Counsel on the point of sentence and also the learned P.P., on sentence.

The learned Advocate appearing for the accused submitted that the accused has no criminal background and he is the permanent resident of Gundatturu Village. Accused is the only bread earning member of the family and lenient view may be taken. The learned P.P. submitted that since the accused has committed the offence under sections 504, 324, 448, 323, 354 of IPC and U/s.3 (1)(x) &



(xi) of SC/ST (POA) Act 1989 which are heinous in nature and hence he has to be punished severely.

The accused is aged about 43 years as on the date of the commission of the offences. Hence considering the age of the accused and nature of the offences committed he is liable to undergo the punishment as under;

ORDER

The accused is sentenced to undergo R.I. for six months and he is also sentenced to pay a fine of Rs.1,000/- for the offence punishable under section 504 of IPC. In default of payment of fine accused shall under go R.I. for further two months.

The accused is sentenced to undergo R.I. for nine months and he is also sentenced to pay a fine of Rs.3,000/-for the offence punishable under section 324 of IPC. In default of payment of fine accused shall under go R.I. for further three months.

The accused is sentenced to undergo R.I. for three months and he is also sentenced to pay a fine of Rs.500/-for the offence punishable under section 448 of IPC. In default of payment of fine accused shall under go R.I. for further one month.

The accused is sentenced to undergo R.I. for three months and he is also sentenced to pay a fine of Rs.500/-for the offence punishable under section 323 of IPC. In default of payment of fine accused shall under go R.I. for further one month.

The accused is sentenced to undergo RI for one year and he is also sentenced to pay a fine of Rs.1,000/- for the offence punishable under section 354 of IPC. In default of payment of fine accused shall under go RI. for further two months.



The accused is sentenced to undergo RI for six months and he is also sentenced to pay a fine of Rs.500/- for the offence punishable under section 3(1)(x) of SC/ST (POA) Act 1989. In default of payment of fine accused shall under go R.I. for further one month.

The accused is sentenced to undergo R.I. for six months and he is also sentenced to pay a fine of Rs.500/- for the offence punishable under section 3(1)(xi) of SC/ST (POA) Act 1989. In default of payment of fine accused shall under go R.I. for further one month.

The sentences shall concurrently.

After receiving the fine amount from the accused, an amount of Rs.2,500/- each is ordered to be paid to PW1 -Venkataswamy and PW3 - Nagamma as compensation.

The MO.1 is ordered to be destroyed, after the appeal period is over.

Issue Jail warrant accordingly."

Being aggrieved by the said judgment and order, the present appeal is filed.

4. The learned counsel for the appellant, taking this court through the records, at the outset, submits that the accused/appellant has been falsely implicated in the case which is evident by the deposition of PWs.4,7,8 and 9 who were inimically disposed towards the accused/appellant for he having



complained against them of their illegal fishing activities at Kabini dam. He submits that merely because PW.1, who was the tenant of the accused/appellant, belonged to scheduled caste community, and a conspiracy was hatched to implicate the accused/appellant by creating a false and fabricated story of he assaulting and abusing PW.1 near Anchemaramma temple and thereafter assaulting his wife near their house, which theory has not been established and proved by the prosecution in the manner required under law.

5. He submits that the presence of the witnesses PWs.4 and 8 at the said temple has been disproved, similarly the presence of PW.9 near the house of the PWs.1 and 3 has also been disproved. He reads into deposition of the witnesses in extenso to point out the contradictions and discrepancies. He submits that the categorical admission of all these witnesses of they having been implicated and involved in the case of illegal fishing at the instance of the accused/appellant categorically establishes the acceptable defence of he having been falsely implicated in the case.



6. He further submits that for the purpose of attracting the punishment for the offence of atrocities contemplated under Section 3(1)(x) and (xi) of the Act, the prosecution is required to prove beyond all reasonable doubt the commission of the said offence within the public view. The requirements have not been met with by the prosecution justifying conviction and imposition of sentence. The learned counsel for the appellant thus prays for allowing the appeal.

7. Per contra, the learned HCGP, justifying the impugned judgment and order passed by the trial Court, submits that the incident having taken place near Anchemaramma temple, where the accused/appellant apart from abusing PW.1 in the name of his caste, has also assaulted him with a wooden reaper which has been witnessed by PW.4 and PW.8 and the said witnesses have supported the case of the prosecution. He further submits that the second instance of accused/appellant abusing PW.3, the wife of PW.1, in the name of caste in public view and assaulting her and kicking on her stomach is also established by the prosecution by examining PW.9. The said witnesses have supported the case of the prosecution. Therefore, he submits that merely because the said witnesses



having admitted of they involving in the alleged fishing incident cannot take away the case of the prosecution. Hence, the learned HCGP seeks dismissal of the appeal.

8. Heard. Perused the records.

9. Point that arises for consideration is :

"Whether on the facts and in law the trial Court is justified in passing the impugned judgment of conviction and order of sentence?".

10. A perusal of the complaint at Exhibit P.3, which is extracted hereinabove, would indicate that the alleged incident had taken place on 14.03.2014 at about 4.30pm near Anchemaramma temple of the village, wherein the accused who is the landlord of PW.1, who was his tenant, had apparently demanded payment of Rs.1,000/- being arrears of rent. It is alleged that the accused/appellant had abused PW.1 in filthy language and had humiliated him in the name of his caste. According to PW.1, the complainant, this incident was witnessed by Sri Kumar, PW.8. It is further alleged that the accused/appellant thereafter went near the house of PW.1 and started to abuse him in filthy language and in the name of the caste of PW.1, at which point of time, the wife of PW.1,



Nagamma, PW.3 had tried to pacify the accused and the accused/appellant had dragged her by her hair and kicked her on her stomach which was witnessed by Sri Shivananjaiah, PW.9 who had intervened and taken them to the hospital.

11. The complaint also refers to **Kariyaiah PW.4** - purportedly intervening and pacifying the accused/appellant. The prosecution has examined PW.4, who in his evidence has stated that he was present near Anchemaramma Temple, when the accused/appellant had come and demanded money from PW.1. He has also deposed about accused/appellant assaulting PW.1 with wooden reaper and thereafter the accused/appellant proceeding to the house of PW.1 and abusing and assaulting PW.3. He has also deposed that he had intervened and pacified the accused/appellant. He has also spoken about police arriving and conducting mahazar on the following day at about 11a.m.

12. The said witness was treated as partly hostile and in the cross examination by the Public Prosecutor, he has admitted to the suggestion of the accused abusing PW.1 in filthy language and assaulting PW.3, his wife.



13. During the cross-examination on behalf of the accused/appellant, the said witness has admitted that he was at a distance of 15feet to 20feet when accused and PW.1 were quarrelling and that he had not gone near them. He has also admitted that there are houses around the said temple and no member of the public had come near the spot. He has further admitted that he did not try to intervene in the quarrel between the accused and PW.1. He has deposed that he went to the house of PW.1 after 5 to 10 minutes of accused reaching the house of PW.1 and that there were already members of public gathered near the house of PW.1 and he tried to intervene and separate the accused while he was assaulting PW.3. This witness has further stated that he had taken the wooden reaper to his house and he handed over the same to the police on the following day.

14. As rightly pointed out by the learned counsel for the appellant, the said witness has also not spoken about presence of any other witness either near the temple or near the house of PW.1. However, he has stated that when he went to the house of PW.1, there was already a gathering of public near the house.



15. The said witness has not spoken about he having heard the accused abusing PW.1 in the name of his caste as according to the said witness, he was at a distance of 15feet to 20 feet away from the place of incident.

16. **PW.7 - Shivalegowda**, is another witness who has spoken about he being present on the date of the incident near Anchemaramma temple. He has also not supported the case of the prosecution. However, in the cross-examination on behalf of the accused, the said witness has admitted that PW.1 Venkataswamy was making his livelihood by fishing. He has also admitted that the accused/ appellant was working for the Association as an Accountant and was preventing illegal fishing by the people. He has pleaded ignorance about there being quarrel between PW.1 and the accused with regard to illegal fishing and a case being filed before H.D.Kote in this regard. Neither in the complaint nor in the deposition of PW.4, is there any mention about the presence of PW.7 at the spot of the incident namely, Anchemaramma temple.

17. **PW.8 - Kumar**, whose presence at the temple finds mention in Exhibit P.3, has spoken about the accused abusing



PW.1 in the name of his caste and he intervening in the quarrel. However, he has been treated partly hostile since he has not supported the prosecution case. In the cross-examination on behalf of the accused, he has admitted that the accused/appellant was working as Guard at Kabini Dam. He has also admitted that there were several instances of quarrel between the villagers of Gandathuru. He has also admitted accused being the informer regarding illegal fishing. He has also admitted that he was accused of murder which had taken place in relation to very fishing incident and was facing trial in that regard.

18. **PW.9 - Shivananjaiah**, whose name is mentioned in Exhibit P.3 to have witnessed the incident taken place near the house of PW.1, in his chief examination has spoken about his presence at the temple. The said witness has been treated as partly hostile and in the cross examination by the prosecution, he has stated that when he went near the house of PW.1 there was no gathering of any people. He has also admitted to the fact that there are several houses surrounding the house of PW.1. In the cross-examination, he has further admitted that he was also into fishing business and that there



are cases pending against him with regard to illegal fishing. He has however pleaded ignorance about accused being involved in giving complaint against illegal fishing.

19. As rightly pointed out by the learned counsel for the appellant, a common thread which runs through the deposition of these witnesses, is that there appears to be element of animosity between these witnesses on the one hand and accused/ appellant on the other. All these witnesses have unequivocally admitted to the fact of they carrying on the fishing business and the accused having complained against them regarding the same. They have also admitted to the fact of pendency of criminal cases with regard to purported illegal fishing.

20. The presence of PW.9 Sanjeevaiah near the temple is not shown in Exhibit P3. By his own evidence, PW.9 Sanjeevaiah was informed about the incident by a certain boy and by the time he arrived, PW.3 was allegedly assaulted by the accused and he has not witnessed the same in person. Therefore, his evidence of he witnessing the accused abusing PW.1 and PW.3 by their names cannot be accepted.



21. PW.8 has not specifically described the manner in which the accused had allegedly abused the appellant in the name of his caste. PW.8 has not spoken about the presence of PW.9 at the temple. Similarly, PW.9 has not spoken about the presence of PW.8 either near the temple or near the house of PW1 and PW3.

22. The prosecution has not corroborated the evidence of these witnesses.

23. The Apex Court in the case of **Hitesh Verma versus State of Uttarakhand**, reported in **(2020)10 SCC 710**, dealing with the offence of atrocities under Section 3(1)(r) and (x) of the Act has held that all insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to scheduled caste and scheduled tribe and that the same was done in any place within the public view.

24. The background of the case, even according to prosecution, is the alleged non-payment of arrears of rent by PW.1 to the accused. The prosecution, though has examined PW.4, PW7, PW.8 and PW.9, none of these witnesses have



specifically spoken about the actual words spoken by the accused allegedly insulting and abusing PW.1 and PW.3 in the name of their caste. As already noted, the very presence of these witnesses at the spot becomes unacceptable as there is no corroboration of evidence particularly with regard to they being present at the spot at the same time.

25. Another aspect of the matter to be seen is that all the witnesses, though have spoken about several residential houses situate around the temple as well as around the house of PW.1, have in unison deposed that none of the nearby residents came out on hearing the alleged commotion. Thus there is a considerable force in the submission being made by the learned counsel for the appellant with regard to the very basis of allegation of commission of offence under Section 3(1)(x) and (xi) of the Act.

26. In the light of the facts and the settled principle of law referred to above, this Court is of the considered view that the prosecution has failed to prove and establish the commission of offence punishable under Section 3(1)(x) and (xi) of the Act. The judgment of conviction and Order of



sentence passed by the trial Court in this regard is unsustainable.

27. As regards the offences punishable under Sections 323, 324, 354, and 448 IPC, the prosecution has examined PW.2, Dr. B. S. Veena, who in her deposition has stated referring to Exhibit P.2, Wound Certificate, that the said injuries are of simple in nature, which are mere marks of abrasion. In any event, since the prosecution has failed to prove and establish the very occurrence of the incident at the temple and at the house of the accused, there cannot be any further probe of the same with regard to the offences punishable under the provisions of the IPC as well.

28. The appeal succeeds and hence, the following order:

ORDER

- (i) Criminal appeal is **allowed**.
- (ii) The Judgment of Conviction and Order of Sentence dated 23.04.2015 in Spl.Case.No.69/2013 on the file of the VI Additional District and Special Judge at Mysuru is set aside.



- (iii) The accused is acquitted of the offences punishable under sections 354, 504, 324, 448 and 323 of IPC and under section 3(1)(x) and (xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- (iv) The bail bond and sureties, if any, stand cancelled.
- (v) Fine amount deposited, if any, shall be refunded to accused/appellant.

Sd/-
(M.G.S. KAMAL)
JUDGE

NV