



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 26TH DAY OF FEBRUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO. 540 OF 2018 (A)

BETWEEN:

THE STATE OF KARNATAKA
BY BALUR POLICE,
REP. BY THE STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING,
BENGALURU -01

...APPELLANT

(BY SRI. B. LAKSHMAN, HCGP)

AND:

SRI B S ASHWATH
S/O B L SHRINIVASA GOWDA
AGRICULTURIST, R/O BILAGALI VILLAGE
BALUR HOBLI, MUDIGERE TALUK-577132

...RESPONDENT

(BY SRI. A.N. RADHAKRISHNA, ADV.)

THIS CRL.A. IS FILED U/S.378(1) AND (3) CR.P.C BY THE STATE P.P. FOR THE STATE PRAYING TO GRANT LEAVE TO FILE AN APPEAL AGAINST THE JUDGEMENT AND ORDER DATED 06.10.2017 PASSED IN C.C.NO.621/2013 ON THE FILE OF PRINCIPAL CIVIL JUDGE AND J.M.F.C., MUDIGERE THEREBY ACQUITTING THE ACCUSED/RESPONDENT FOR THE OFFENCE P/U/S 504,323 AND 324 OF IPC.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE G BASAVARAJA





ORAL JUDGMENT

The appellant/State has preferred this appeal against the judgment of acquittal dated 06.10.2017 passed in CC No.621/2013 by the Principal Civil Judge and JMFC, Mudigere (for short "the trial Court").

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

3. Brief facts leading to this appeal are that, Balur police have submitted the charge-sheet against the accused for the offences punishable under Sections 504, 323 and 324 of Indian Penal Code.

4. It is alleged by the prosecution that, on 01.04.2012 in the afternoon, within the jurisdiction of the Balur Police Station in Bilagali Village at the barren land in Survey No.20 and 26 near the Halla, when CW1 was grazing the cattle belonging to Subbashetty, the accused asked why he is grazing the cattle in his land and abused him in filthy language. The accused dragged CW1, tore



his shirt and slapped him. The accused has also pounded upon the testicles of CW1 with the back of his of gun. Thus, the accused has committed the alleged offences.

5. After filing the charge-sheet, case was registered in CC No.621 of 2013. Accused was enlarged on bail.

6. Upon hearing on charges, trial Court has framed the charges for the commission of alleged offences. Same were read over and explained to the accused. Having understood the same, accused pleaded not guilty and claimed to be tried.

7. To prove the case of the prosecution in all, 12 witnesses were examined as PW1 to PW2. 21 documents were marked as Exhibits P1 to P21. Two material objects were marked as MOs.1 and 2. On closure of prosecution side evidence, statement under Section 313 of Code of Criminal Procedure was recorded. The accused has totally



denied the evidence of prosecution witnesses. However, he did not choose to lead any defence evidence on his behalf.

8. The accused has filed his written-statement, wherein it is stated that his father has obtained permanent injunction in respect of land in Survey No.20. He has stated that brother of PW6-Sathish is working as a Police Officer and upon his investigation, Ramesh, CPI, Mudigere, has filed a false case against him. Further, he has stated that PW12 has forced him to keep the gun on the table of PSI and in this regard the accused has lodged a complaint to the Superintendent of Police which is marked as Exhibit D4. The accused counsel has confronted three documents to PW1 and got marked as Exhibits D1 to D3 and he also confronted a document-Exhibit D4 to PW12.

9. Having heard the arguments on both sides, the trial Court has acquitted the accused. Being aggrieved by the judgment of acquittal, the appellant/State has preferred this appeal.



10. Learned High Court Government Pleader Sri B.Lakshman, would submit that the impugned judgment of acquittal is contrary to the oral and documentary evidence on record. PW1 is the complainant/victim. He has clearly stated in his evidence that accused abused and assaulted him. The complaint is marked as Exhibit P1. There is nothing elicited in the cross-examination so as to disbelieve his evidence with regard to the incident in question. PW9-Dr. Sandeep Kumar has examined the injured-PW1 and issued wound certificate which is marked as Exhibit P10. Hence, evidence of PW9 is supported by medical evidence. PW10 is the panch witness. He has supported the case of the prosecution.

11. The reasons assigned by the trial Court for acquitting the accused is not in accordance with law. The evidence of injured has not been properly appreciated by the trial Court. The reasons assigned that injured has not stated about the incident before the doctor and therefore, rejecting his evidence is not legal and proper. The trial



Court ought not to have given importance to minor discrepancies in the evidence of prosecution witnesses. The trial Court ought to have considered the overall evidence and appreciated the same in its right perspective and should have arrived at a proper conclusion.

12. The trial Court committed an error in disbelieving the prosecution case on the ground that there is a delay in taking treatment by PW1 and also delay in lodging the complaint. There is no delay in filing the complaint. The trial Court has erred in disbelieving the evidence of PW1 on the ground that it is not supported by any independent witness and that there may be chances of simplification by the complainant against the accused.

13. The trial Court has failed to appreciate the photos and CD produced by the prosecution. The trial Court, during the course of judgment, has observed that CD and photos does not bear any certificate as provided under Section 65(B) of Evidence Act, which is not helpful



in any manner. On all these grounds, it is sought for allowing the appeal.

14. On the other hand, Sri A.N. Radhakrishna, learned counsel appearing for the respondent, would submit that the evidence of PW1 is contrary to the contents of Exhibit P1-complaint. The trial court has properly appreciated the evidence on record in proper perspective. Absolutely, there are no grounds to interfere with the impugned judgment of acquittal and hence, sought for dismissal of appeal. In support of his submissions, he has relied on the following decisions:

1. DARSHAN SINGH v. STATE OF PUNJAB AND ANOTHER - (2010)2 SCC 333;
2. AYODHYA SINGH v. STATE OF BIHAR AND OTHERS - 2005 SCC (CRI) 1252;

15. Having heard the arguments on both sides and on perusal of the materials placed before this Court, the following points would arise for my consideration.



1. Whether the trial Court is justified in passing the impugned judgment of conviction?

2. What order?

Regarding Point No.1:

16. I have examined the materials placed before this Court. Before appreciation of evidence on record, it is necessary to mention as to the judgments of the Hon'ble Apex Court in cases of CONSTABLE 907 SURENDRA SINGH AND ANOTHER v. STATE OF UTTARAKHAND reported in (2025)5 SCC 433; BABU SAHEBGOU DA RUDRAGOUDAR 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."

17. 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."

18. In the case on hand, the genesis of the case arose from Exhibit P1-complaint. In the complaint it is stated as under:

"ದಿನಾಂಕ 1-4-2012 ರಂದು ಭಾನುವಾರ ಮಧ್ಯಾಹ್ನ ಅಂದಾಜು 2 ಗಂಟೆಯಿಂದ 3:15ರ ಸಮಯದ ಮಧ್ಯದಲ್ಲಿ ನಾನು ನಮ್ಮ ಮಾಲೀಕರ ದನವನ್ನು ಮೇಯಿಸಲು ಹೋಗಿದ್ದು ಬಿಳಿಗಲಿ ಹಳ್ಳದ ಜಟ್ಟಿನಲ್ಲಿ ದನ ಮೇಯಿಸುತ್ತಿರುವಾಗ ಮೂಡಿಗೆರೆ ತಾಲ್ಲೂಕು ಬಿಳಿಗಲಿ ಗ್ರಾಮದ ಶ್ರೀನಿವಾಸಗೌಡರ ಮಗ ಅಶ್ವತ್ಥ ಹಾಗೂ ಶ್ರೀನಿವಾಸಗೌಡರ ಪತ್ನಿ ಶ್ರೀಮತಿ ಪ್ರೇಮ ರವರು ಏಕಾಏಕಿ ಅಶ್ವತನು ತೋಟ ಕೋವಿಯನ್ನು ಹಿಡಿದುಕೊಂಡು ನನ್ನ ಬಳಿಗೆ ಬಂದು ನನಗೆ ಅವಾಚ್ಛ ಶಬ್ದಗಳಿಂದ ಬೈದು ಇಲ್ಲಿ ಏಕೆ ಧನಮಿಸುತ್ತಿದ್ದೀಯ ಬೋಳಿಮಗನೆ ಸೂಳಿಮಗನೇ ಎಂದು ಬೈದು ನನ್ನ ಮರ್ಯಾದೆಗಕ್ಕೆ ತಿವಿದು ಎಡ



HC-KAR

NC: 2026:KHC:12143
CRL.A No. 540 of 2018

ಬೀಜಕ್ಕೆ ಪೆಟ್ಟಾಗಿದ್ದು ಕೊಲ್ಲಲು ಪ್ರಯತ್ನಿಸಿರುತ್ತಾರೆ. ನಂತರ ನನ್ನ ಟೀ ಶರ್ಟ್ ಕಾಲರನ್ನು ಹಿಡಿದು ಬೋಳಿಮಗನೇ ಸೂಳಿಮಗನೇ ಎಂದು ಎಳೆದಾಡಿದ್ದು ನನ್ನ ಟೀ ಶರ್ಟ್ ನ ಹೊಲಿಗೆ ಸ್ವಲ್ಪ ಜಿಜ್ಞಾಸುತ್ತುತ್ತದೆ. ಇದೇ ಸಮಯದಲ್ಲಿ ಶ್ರೀಮತಿ ಪ್ರೇಮ ರವರು ನಿನ್ನ ಅಪ್ಪನ ಜಾಗನ ಬೋಳಿಮಗನೇ ಗುಡ್ಡದಲ್ಲಿ ಮನೆ ಇದ್ದು ಇಲ್ಲಿಗೆ ದನ ಮೇಯಿಸಲು ಬರುತ್ತೀಯೆ ಬಾ ನನ್ನ ಮನೆಗೆ ನಿನಗೆ ಹೇಳು ತಿನ್ನಿಸ್ತೀನಿ ಸೂಳಿಮಗನೇ ಎಂದು ಹೇಳಿ ಅವಮಾನ ಮಾಡಿರುತ್ತಾರೆ ಮತ್ತು ಒಂದು ವರ್ಷ ಹಿಂದೆಯೂ ಸಹ ನಿನಗೆ ಕತ್ತಿಯಲ್ಲಿ ಕಡಿಯುತ್ತೇನೆ, ಕೊವಿಯಲ್ಲಿ ಗುಂಡು ಹಾರಿಸುತ್ತೇನೆ ಎಂದು ಅಶ್ವತ್ಥ ಬೈದಿದ್ದ ಇಂದು ಈ ಸಮಯದಲ್ಲಿ ನನ್ನ ಜೊತೆಗೆ ದನ ಮೇಯಿಸುವ ವೇಳೆ ಅಪ್ಪಣ್ಣ ಶೆಟ್ಟರ ಮಗ ಉಮೇಶ ರವರು ಇದ್ದು ಅವರಿಗೂ ಸಹ ಗಲಾಟೆ ಮಾಡಿ ಬೈದಿರುತ್ತಾರೆ ಈ ಗಲಾಟೆಯನ್ನು ನಾನು ಮತ್ತು ಉಮೇಶ ರವರು ಮೊಬೈಲ್ ಫೋನಿನಲ್ಲಿ ರೆಕಾರ್ಡ್ ಮಾಡಿಕೊಂಡಿರುತ್ತೇವೆ. ಅದನ್ನು ನಿಮ್ಮ ತನಿಖೆಯ ಸಮಯದಲ್ಲಿ ಒಪ್ಪಿಸುತ್ತೇವೆ. ದಯಮಾಡಿ ಇವರ ಮೇಲೆ ಸೂಕ್ತ ಕಾನೂನು ಕ್ರಮ ಕೈಗೊಂಡು ನಮಗೆ ರಕ್ಷಣೆ ಕೊಡಬೇಕಾಗಿ ಈ ಮೂಲಕ ಕೇಳಿಕೊಳ್ಳುತ್ತೇನೆ ಮತ್ತು ವಾಹನ ಸೌಕರ್ಯ ಇಲ್ಲದಿದ್ದರಿಂದ ದೂರು ನೀಡಲು ತಡವಾಗಿರುತ್ತದೆ."

19. Manju, who is the complainant, is examined as PW1. He has deposed in his evidence that on 01st April, 2012 he went to his land to graze cattle along with Dileepa and Dharmesha. Accused and his mother-Prema came to their land by holding gun and abused them not to graze cattle in their land and caught hold of his collar, slapped him and also pounded with the back of the gun to the private part of CW1. Then, the accused and his mother



abused them in filthy language. Accused also abused CW2 in filthy language. Then, he lodged a complaint to the police as per Exhibit P1. Further, he has deposed as to mahazar conducted by the police as per Exhibit P2. PW1 has identified the photos marked as Exhibits P3 to P5 and identified the torn shirt-MO1.

20. PW2-Krishnasetty is said to be the eye-witness and he has deposed in his evidence that, he knows CW1, CW3 to CW5. About 4 years back, one day while he was grazing cattle in paddy field, CW3 and CW5 came with a gun, assaulted CW1 with the said gun and abused him in filthy language. Then, he drove his cattle to his house. He identified the accused.

21. PW3-Dharmesh and PW4-Dileep who are said to be the eye-witnesses and also mahazar witnesses, have not supported to the case of the prosecution.

22. PW5-Umesh is a hearsay witness. He has not fully supported the case of the prosecution.



23. PW6-Santhosh is also a hearsay witness.

24. PW7-Yogesh and PW8-Gopalshetty have deposited as to the mahazar conducted by police as per Exhibit P2.

25. PW9-Dr.Sandeep Kumar has deposited as to the treatment extended to the injured on 01.04.2012 at 07.30 pm, who came to the Hospital with the history of assault.

26. PW10-Ramu has deposited as to seizure mahazar-Exhibit P8.

27. PW11-Khaleemulla and PW13-Ananthapadmanabha have deposited as to their respective investigation.

28. With regard to the offence punishable under Section 504, the prosecution has not placed any essential ingredients to attract the alleged offence. With regard to the offence punishable under Sections 323 and 324 Indian Penal Code is concerned, in the complaint-Exhibit P1, it is



stated that the accused has assaulted and pounded with backside of gun on the left testicles of the complainant. PW1 has also deposed the same. Further, it is alleged that the accused caught hold of the collar of PW1 and slapped him.

29. PW2 has not deposed in his evidence that the accused has caught hold of the collar of PW1 and slapped on the cheek of PW1. But he has deposed that the accused pounded with the backside of gun. Wound certificate-Exhibit P10 pertaining to the injured PW1-Manju, reveals that Manju came with the history of assault by Ashwath with gun on 01.04.2012. The injury is shown as contusion over right testicle 2 cm size. Doctor has opined that injury is simple in nature. The contents of Exhibit P1 is not corroborated with the medical evidence. The evidence placed by both parties reveals that there is a dispute between PW6 and the accused. The complainant is working under PW6. The sole interested testimony of PW1 has not been substantiated by any other independent



witnesses and also the medical evidence. Since there is an enmity between the complainant and accused, PW6 and accused, it is not safe to convict the accused on the sole interested testimony of PW1, which is not corroborated by medical evidence. The trial Court has properly appreciated the evidence on record in proper perspective. Hence, on re-examination, reconsideration and re-appreciation of the evidence on record, I do not find any factual or legal error committed by the trial Court.

30. Considering the facts and circumstances of the case and also keeping in the mind the aforestated decisions of Hon'ble Supreme Court, I answer Point No.1 in the affirmative.

Regarding Point No.2:

31. For the aforestated reasons and discussions, I proceed to pass the following:



**NC: 2026:KHC:12143
CRL.A No. 540 of 2018**

ORDER

Appeal is dismissed.

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

KBM,LNN
List No.: 1 Sl No.: 60