



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION No.1101 OF 2018
(397(Cr.PC) / 438(BNSS))

BETWEEN:

1. NANJIAIAH
S/O BASAVIAIAH,
AGED ABOUT 50 YEARS
OCC:AGRICULTURIST,
R/AT HOMMEGOWDANAHALLI VILLAGE,
GUNDLUPET TALUK,
CHAMARAJANAGARA DISTRICT-571 111
2. DEVARAJU
S/O DEVAIAIAH,
AGED ABOUT 45 YEARS
OCC:AGRICULTURIST,
R/AT HOMMEGOWDANAHALLI VILLAGE,
GUNDLUPET TALUK,
CHAMARAJANAGARA DISTRICT-571 111
3. CHIKKADEVIAIAH
S/O GOPALIAIAH,
AGED ABOUT 50 YEARS
OCC:AGRICULTURIST
R/AT HOMMEGOWDANAHALLI VILLAGE,
GUNDLUPET TALUK,
CHAMARAJANAGARA DISTRICT-571 111
4. BILIGIRIAIAH
S/O GOPALIAIAH,
AGED ABOUT 40 YEARS
OCC:AGRICULTURIST
R/AT HOMMEGOWDANAHALLI VILLAGE,
GUNDLUPET TALUK,

Digitally
signed by R
MANJUNATHA
Location:
HIGH COURT
OF
KARNATAKA



CHAMARAJANAGARA DISTRICT-571 111

5. MAHESHA
S/O BELLAIAH,
AGED ABOUT 35 YEARS
OCC:AGRICULTURIST
R/AT HOMMEGOWDANAHALLI VILLAGE,
GUNDLUPET TALUK,
CHAMARAJANAGARA DISTRICT-571 111

6. NAGARAJU
S/O BELLAIAH,
AGED ABOUT 40 YEARS
OCC:AGRICULTURIST
R/AT HOMMEGOWDANAHALLI VILLAGE,
GUNDLUPET TALUK,
CHAMARAJANAGARA DISTRICT-571 111

...PETITIONERS

(BY SRI. CHANDRASHEKARA K A, ADVOCATE)

AND:

THE STATE OF KARNATAKA
BY POLICE OF
GUNDLUPET POLICE STATION,
CHAMARAJANAGARA DISTRICT-571 111
REPRESENTED BY
STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA,
BANGALORE-560 001

...RESPONDENT

(BY SRI K.NAGESHWARAPPA, HIGH COURT GOVERNMENT
PLEADER)

THIS CRIMINAL REVISION PETITION IS FILED UNDER
SECTION 397 R/W 401 CODE OF CRIMINAL PROCEDURE
PRAYING TO SET ASIDE THE ORDERS OF CONVICTION AND
SENTENCE DATED 05.04.2012 PASSED BY THE CIVIL JUDGE
AND J.M.F.C., GUNDLUPETE IN C.C.No.305/2008 AND
CONFIRMED BY THE JUDGMENT DATED 19.12.2017 PASSED BY
THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
CHAMARAJANAGARA (SITTING AT KOLLEGALA) IN



CRL.A.No.22/2012 AND ACQUIT THE PETITIONERS FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 143, 147, 148, 341, 323, 326 AND 504 R/W 149 OF INDIAN PENAL CODE.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri K.A.Chandrashekara, learned counsel for the revision petitioners and Sri K.Nageshwarappa, learned High Court Government Pleader.

2. Revision Petitioners are the accused persons who suffered an order of conviction in C.C No.305/2008 for the offences punishable under Sections 143, 147, 148, 341, 323, 326, 504 read with Section 149 of the Indian Penal Code and sentenced as under:

"In exercising powers conferred in the Section 248(e) of Code of Criminal Procedure, the accused No.1 to 6 are hereby convicted for the offences punishable under Sections 143, 147, 148, 341, 323, 326, 504 read with Section 149 of Indian Penal Code.

The accused No.1 to 6 shall go simple imprisonment for a term of 3 months for the offences punishable u/S 143 r/w Sec. 149 of IPC.



The accused No.1 to 6 shall go simple imprisonment for a term of one year for the offences punishable u/S 147 r/w Sec. 149 of IPC.

The accused No.1 to 6 shall go simple imprisonment for a term of two years for the offences punishable u/S 148 r/w Sec. 149 of IPC.

The accused No.1 to 6 shall pay fine amount of Rs.1,000/- each for the offences punishable u/S 341 r/w Sec. 149 of IPC. In default of paying of fine amount, they shall go simple imprisonment for a term of 15 days.

The accused No.1 to 6 shall go simple imprisonment for a term of six months for the offences punishable u/S 323 r/w Sec. 149 of IPC.

The accused No.1 to 6 shall go simple imprisonment for a term of three years and pay fine amount of Rs.5,000/- each for the offences punishable u/S 326 r/w Sec. 149 of IPC. In default of paying fine amount they shall go simple imprisonment for a period of six months.

The accused No.1 to 6 shall go simple imprisonment for a term of six months for the offences punishable u/S 504 r/w Sec. 149 of IPC.

Out of collecting the fine amount Rs.25,000/- shall be go to PW1 and 2 as a compensation amount for the injuries



sustain by them in the incident. Remaining fine amount is to be confiscated to Government.

The surety bond and accused bonds are stands cancelled.”

3. Order of the learned Trial Magistrate was challenged before the First Appellate Court in Criminal Appeal No.22/2012 and the learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties in detail and on re-appreciation of the matter law on record, by considered judgment dated 19.12.2017, dismissed the appeal.

4. Thereafter, revision petitioners are before this Court.

5. Facts in the nutshell which are utmost necessary for disposal of the present revision petition are asunder:

In respect of an incident said to have occurred on 25.12.2007, at about 03.30 p.m. in Honnegowdanahalli, in front of Community Hall, accused persons said to have formed an unlawful assembly holding deadly weapons like sticks, stones and wooden clubs, objected the free movement of the complainant and CW-2 and, assaulted them with clubs and



stones. They also abused the complainant and CW-2 in filthy language. Later, the quarrel was pacified.

6. Thereafter, complainant approached the police station and lodged the complaint.

7. Based on the complaint, police registered the case and after thorough investigation filed the charge sheet for the aforesaid offences. The presence of the accused persons was secured and charges were framed.

8. All accused persons pleaded not guilty. Therefore, trial was held.

9. In order to bring home the guilt of the accused persons, eleven witnesses were examined on behalf of the prosecution as PW-1 to PW-11 and as many as seven documentary evidence were placed on record, which were exhibited and marked as Exs.P-1 to P-7 comprising of the complaint, spot mahazar, portion of the statement of P.W.4, FIR, wound certificate of PW-2 and PW-1 respectively and the case sheet.



10. Portions of the contradictory answers elicited in the cross-examination of P.W-1 and P.W-2 were marked as Ex. D-1 and Ex.D-2 by the defence.

11. Prosecution placed on record seized wooden clubs and the stone as MO-1 and MO-2 before the Trial Magistrate.

12. On conclusion of recording of evidence, learned Trial Magistrate recorded the accused statement as is contemplated under Section 313 of the Code of Criminal Procedure wherein, accused persons have denied all the incriminatory circumstances.

13. Thereafter, learned Trial Magistrate heard the arguments of the parties and convicted the accused and sentenced as referred to supra.

14. Appeal filed by the accused persons challenging the validity of the order of conviction and sentence stood dismissed.

15. Thereafter, accused persons are before this Court in this revision.



16. Sri K.A.Chandrashekara, learned counsel for the revision petitioners reiterating the grounds urged in the revision petition vehemently contended that both the Courts have not properly appreciated the material evidence on record and wrongly convicted the accused persons for the aforesaid offences and sought for allowing the revision petition.

17. Alternatively, Sri K.A.Chandrashekara, would contend that there is no material evidence on record to substantiate the conviction of the revision petitioners for the offence under Section 326 of the Indian Penal Code.

18. Therefore, in the event this Court upholding the order of conviction, offence under Section 326 of the Indian Penal Code needs to be scaled down to offence under Section 324 of the Indian Penal Code and thereafter the benefit of the Probation of Offenders Act may be granted to the petitioners.

19. *Per contra*, learned High Court Government Pleader supports the impugned judgments.

20. He would further contend that accused persons forming an unlawful assembly and assaulting CW-1 and CW-2 who have



been examined as PW-1 and PW-2 is established by the prosecution by placing cogent and convincing material evidence on record.

21. He would further emphasize that the seizure of material objects marked at MO-1 and MO-2 under the spot mahazar fortifies the case of the prosecution. The wound certificate marked at Exs.P-5 and P-6 issued by PW-8 and PW-11 clearly establishes the incident and the treatment taken by PW-1 and PW-2. Therefore, order of conviction needs no interference.

22. He would further point out that the material evidence on record is sufficient enough to maintain the conviction of the accused persons for the offence under Section 326 of the Indian Penal Code as well, in view of the wound certificate Ex.P.6 and the case sheet marked at Ex.P-8 and sought for dismissal of the revision petition in *toto*.

23. In the case on hand, in view of the rival contentions of the parties, this Court perused the material on record meticulously.



24. On such perusal of the material on record, it is crystal clear that the incident is established by the prosecution by placing cogent and convincing evidence on record.

25. Ex.P-6 is the wound certificate pertaining to Guruswamy, who has been examined as PW-1 before the Trial Court, who is the complainant and injured witness.

26. In the absence of previous enmity and animosity nurtured by PW-1 against the accused persons, why would he falsely implicate the accused persons allowing the real culprits to escape is a question that remains unanswered on behalf of the accused persons.

27. So also, the wound certificate marked at Ex. P-5 issued by Jagadguru Sri Shivarathreeshwara Hospital along with the case sheet at Ex.P.7 would make out a case that PW-2 also sustained injury.

28. However, to substantiate the injuries found in Exs. P-6 and P-7, there is no X-ray certificate placed on record nor CT scan report nor the radiological report.



29. Under such circumstances, conviction of the accused persons for the offence under Section 326 of the Indian Penal Code cannot be sustained in view of the principles of law enunciated by the Division Bench of this Court in the case of ***State v. Sheenappa Gowda*** reported in **2010 SCC ONLINE KAR 5294**.

30. Paragraph 18 of the said judgment reads as under:

"18. Therefore, the question for determination is limited to find out whether the said injury No. 2 is proved to be a grievous injury sustained by PW. 4. It is well settled that in criminal cases, the burden of proving the guilt of the accused is always on the prosecution and that burden would not shift unless there is a presumption or defence as enumerated in the Penal Code, 1860 is taken by the accused. In this case, the defence taken by the accused is one of denial. It is clear from the evidence of PW. 1 that he has given description of injury on physical examination of PW. 4 and has come to the conclusion that there was fracture of the middle phalanx. It is well settled that when the prosecution alleges that grievous injury has been caused, it is necessary for the prosecution to prove the same beyond reasonable doubt. The evidence of PW.1. would only show that there was injury as described in the wound certificate - Ex.P2. When PW. 1 suspected such fracture, he ought to have referred the injured - PW. 4 for taking X-ray to confirm his finding that there is fracture of



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middle phalanx. It is now well settled hat unless the prosecution produces the X-ray for confirmation of fracture opined by the Doctor on medical examination clinically it cannot be said that the accused have caused grievous injury of fracture. It is true that in the cross-examination of PW. 1, the learned Counsel appearing for the accused has not disputed the nature of injuries spoken to by PW.1. However, he same would not dispense with the production the X-ray by the prosecution to prove beyond reasonable doubt that the injured had sustained fracture of middle phalanx, which is an opinion given by PW. 1 Doctor only on clinical examination of PW. 4, the injured. Therefore, it is clear that the finding of the learned Sessions Judge holding that the prosecution has failed to prove that the accused Nos. 1 to 3 and 5 have committed the offence punishable under Section 326 of I.P.C. and the offence committed by them falls within the ambit of Section 324 of I.P.C. is justified."

31. Applying the principles of law enunciated in the said decision to the facts of this case, the conviction order recorded by the learned Trial Magistrate confirmed by the First Appellate Court needs interference, as there is an error of jurisdiction in convicting the accused persons for the offence under Section 326 of the Indian Penal Code in the absence of original X-ray



certificate or the radiological report of the person who took the CT scan examination of the injured witnesses.

32. Thus, offence under Section 326 of the Indian Penal Code needs to be set aside and same should be scaled down to offence under Section 324 of the Indian Penal Code as there is only a bleeding injury.

33. Taking note of the fact that there is a long duration of treatment that PW-2 has taken in Jagadguru Sri Shivarathreeshwara Hospital as is found in Ex.P-6 pertaining to PW-2 and Ex.P-7 which is the case sheet.

34. While scaling down the offence also, the accused persons are to be saddled with heavy fine which can be paid as compensation to PW-1 and PW-2, as, such benefit is accorded on technical ground.

35. Taking note of the above factual aspects of the matter and also taking note of the fact that the incident has occurred in the year 2007, calling for the report from the Probation Officer at this distance of time is nothing but a futile exercise.



36. Further, there are no criminal antecedents insofar as the accused persons are concerned and there is no complaint against them post incident that occurred on 25.12.2007.

37. Therefore, the order of conviction for the offence under Section 326 IPC needs to be set aside and conviction of the revision petitioners for the remaining offences needs to be maintained.

38. Accused No.6-Sri Nagaraju, S/o Bellaiah, is said to have died on 12.01.2021. A memo is filed in this regard along with copy of the death certificate. Hence, insofar as 6thpetitioner is concerned, petition needs to be dismissed.

39. Taking note of the above factual aspects, application of the provisions of Probation of Offenders Act, no longer be made applicable to the case on hand.

40. Further, since the accused persons are first time offenders, if the petitioners are directed to undergo imprisonment for the day, for the offence under Section 324 IPC and remaining offences, through this judgment, and



ordered to pay enhanced fine of Rs.30,000/- by each of the revision petitioners ends of justice would be met.

41. Further, if a sum of Rs.1,00,000/- is ordered to be paid as compensation to PW-1 and sum of Rs.25,000/- to PW2, who is the wife of PW-1, ends of justice would be further served.

42. Accordingly, the following:

ORDER

- (i) Revision Petition is ***allowed in part.***
- (ii) Revision Petition insofar as Petitioner No.6/accused No.6 stands dismissed as abated.
- (iii) Accused Nos.1 to 5 are acquitted for the offence punishable under Section 326 of the Indian Penal Code. Instead they are convicted for the offence under Section 324 of the Indian Penal Code.
- (iv) Conviction of the accused persons for the remaining offences stands unaltered.
- (v) For the offence under Section 324 of the Indian Penal Code and remaining offences, accused



persons are directed to undergo imprisonment for the day, by modifying the order of the Trial Magistrate confirmed by the First Appellate Court and to pay enhanced fine of Rs.30,000/- each by accused Nos.1 to 5 on or before **15th April 2026** before the Trial Magistrate.

(vi) On receipt of the payment of the enhanced fine amount, sum of Rs.1,00,000/- is ordered to be paid as compensation to PW-1 and sum of Rs.25,000/- as compensation to PW-2 under due identification.

(vii) Balance sum of Rs.25,000/- is ordered to be appropriated towards the defraying expenses of the State.

(viii) The payment of enhanced compensation is in addition to the payment of compensation ordered by the Trial Magistrate confirmed by the First Appellate Court.



(ix) Failure to pay the enhanced fine amount on or before **15th April 2026**, the petitioners shall undergo imprisonment for a period of one year for the offence under Section 324 of the Indian Penal Code and other proved offences.

Office is directed to return the Trial Court Records with copy of this order forthwith for issue of modified conviction warrant.

Sd/-
(V SRISHANANDA)
JUDGE

kcm
List No.: 1 Sl No.: 66