



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

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

CRIMINAL APPEAL NO. 633 OF 2020 (C)

BETWEEN:

SRI G.RUDRAIAH
S/O EREGOWDA,
AGED ABOUT 67 YEARS,
R/O GANGANAHALLI VILLAGE,
HONAKERE HOBLI,
NAGAMANGALA TALUK
MANDYA DISTRICT - 571 432.

...APPELLANT

(BY SRI. HARSHA L.,ADVOCATE FOR
SRI. B.N. ARJUN KUMAR., ADVOCATES)

AND:

STATE OF KARNATAKA
BY NAGAMANGALA
POLICE STATION
NAGAMANGALA TALUK
MANDYA DISTRICT
BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA
BANGALORE.

...RESPONDENT

(BY SRI. B. LAKSHMAN, HCGP)

THIS CRL.A FILED U/S.374(2) CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE DATED 21.10.2019 PASSED BY THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, MANDYA IN S.C.NO.90/2014 - CONVICTING THE APPELLANT/ ACCUSED FOR THE OFFENCE P/U/S 326 OF IPC.

THIS APPEAL, COMING ON FOR ADMISSION, 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 21.10.2019 passed in Special Case No.90/2014 on the file of Prl. Sessions Judge, Mandya (hereinafter referred to as 'the Trial Court') by which accused-appellant has been sentence as under:

ORDER

"The accused No.1 is hereby sentenced to undergo R.I. for two years and fine of Rs.50,000/- and in default of payment of fine, to undergo the imprisonment for a period of four months for the offence punishable under Section 326 of IPC.

Out of the deposited fine amount of Rs.50,000/-, Rs.45,000/- is ordered to be paid to P.W.2 by way of compensation and Rs.5,000/- is ordered to be confiscated to the state.

M.Os.1 to 3 and 5 are ordered to be destroyed being worthless and M.Os.4 and 6 are ordered to be confiscated to state after the appeal period is over.

The bail bonds and surety bonds shall stands cancelled.

Furnish the copy of the Judgment to the accused No.1 forthwith. "

2. Case of the prosecution is that on 17.01.2013 at about 11.00 a.m., Smt.Puttalakshmamma-CW2 was going towards flour mill of Shivalingaiah-CW7 to pay flour mill amount. At



that time, with common intention of committing her murder with previous enmity in respect of a land dispute, accused No.1 at the instigation of accused No.3 assaulted her on her neck with a chopper. That she escaped and sustained injuries on her left arm and fell down. Accused No.2 assaulted her by stone on her ribs, due to which Smt.Puttalakshmamma-CW2 sustained simple and grievous injuries.

3. That upon the complaint so filed, a case in crime No.06/2013, was registered against the accused-appellant herein and two others for the offence punishable under Sections 504, 114, 307 and Section 34 IPC and charges were framed.

4. Since accused-appellant pleaded not guilty, matter was taken up for trial.

5. To prove the guilt on the part of the accused, prosecution examined 13 witnesses as PW1 to PW13 and got marked 18 documents as Ex.P1 to Ex.P18 and further 6 material objects were marked as MO1 to MO6.



6. Statement of the accused persons were recorded under Section 313 of Cr.P.C and which was denied.

7. The trial Court framed following points for its consideration:

" Point No.1: Whether the prosecution proves beyond all reasonable doubt that,

(a) On 17.01.2013 at 11.00 a.m., at Ganganahalli Village in front of the Ragi Flour Mill of Shivalingegowda at Ganganahalli-Kemmanahalli road accused Nos.1 to 3 with the common intention abused CW 2 Puttalakshmamma, insults her and thereby accused Nos. 1 to 3 committed an offence punishable U/sec. 504 of IPC?

(b) On above said date, time and place, accused No.3 instigated the accused Nos.1 and 2 to commit murder of CW 2, accused No.1 assaulted C.W.2 by chopper to her left arm, accused No.2 assaulted by stone to her left ribs and C.W.2 sustained grievous injuries and thereby the accused Nos.1 to 3 committed the offence punishable U/sec.307 R/w/sec.114 of IPC?

Point No.2: What Order?"

8. On appreciation of evidence, answered point No.1(a) in the negative and point No.1(b) as not proved. However, proceeded to convict accused No.1 for the offence punishable on 326 of IPC. Being aggrieved the present appeal is filed.

9. Learned counsel for the accused No.1-appellant reiterating the grounds urged in the memorandum of appeal submits that the allegation against the accused No.1-appellant



is with regard to a land dispute, which has not been supported. He submits that the injuries allegedly sustained by the victim are of simple in nature and the medical evidence does not support the allegation of she sustaining the grievous injuries. He submits that the trial Court having lost sight of this aspect of the matter has proceeded to erroneously convict the accused No.1 who is presently aged 85 years.

10. Learned HCGP, on the other hand submits that medical evidence in the nature of wound certificate produced at Ex.P13 would indicate several injuries of which, injury No.1 is grievous in nature. PW9-Doctor has supported the case of prosecution. Therefore, he submits that the trial Court has committed no error in convicting the accused-appellant for the offence punishable under Section 326 of IPC.

11. Heard and perused the records.

12. Section 320 and 326 of IPC read as under:

*"320. **Grievous hurt.** The following kinds of hurt only are designated as "grievous":-*

First.- Emasculation.

Secondly.- Permanent privation of the sight of either eye.

Thirdly.- Permanent privation of the hearing of either ear,

Fourthly.- Privation of any member or joint.



Fifthly.- Destruction or permanent impairing of the powers of any member or joint.

Sixthly.- Permanent disfiguration of the head or face.

Seventhly.- Fracture or dislocation of a bone or tooth.

Eighthly.- Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

326. Voluntarily causing grievous hurt by dangerous weapons or means.-Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

13. Ex.P13 is the wound certificate dated 14.06.2013, issued by the Taluka Hospital. The injuries mentioned therein read as under:

" 1. 1 CM., deep lacerated wound on left arm portion aspect lower 1/3rd 4X2 Cm, tenderness + bleeding, crepitus + abnormal/mobility.

2. Curvilinear superficial cut, lacerated would about 6-7 CMS of lateral aspect of the left elbow. "

14. The opinion of the PW9-Doctor who treated as reflected in Ex.P13 would indicate that injury No.1 to be grievous in nature, injury No.2 to be simple in nature.

15. The aforesaid injury No.1 read in the light of the definition/designation of the wounds provided under Section



320 of IPC, as rightly pointed by the learned counsel for the appellant, do not meet the requirement of law to be termed as a "grievous injury". Besides PW9-Doctor who treated The injured in the cross-examination has deposed as under:

"4. ನಾನು ಪರೀಕ್ಷೆ ಮಾಡಿದಾಗ ಪುಟ್ಟಲಕ್ಷ್ಮಮ್ಮನ ಎಡತೋಳಿಗೆ ಮೊದಲೇ ಗಾಯವಾಗಿ ಹೊಲಿಗೆ ಹಾಕಿತ್ತು ಎನ್ನುವುದು ಸರಿಯಲ್ಲ. ನಾನು ಮೇಲೆ ಹೇಳಿದ 1 ಮತ್ತು 2 ಗಾಯಗಳನ್ನು ಬಿಟ್ಟರೆ ಸದರಿ ಗಾಯಾಳುವಿಗೆ ಬೇರೆ ಗಾಯಗಳು ಆಗಿರಲಿಲ್ಲ. ಅದೇ ದಿನ ನಾನು 1ನೇ ಆರೋಪಿ ರುದ್ರಯ್ಯನನ್ನು ಸಹ ಪರೀಕ್ಷೆ ಮಾಡಿ ಗಾಯಾಳುಗೆ ಚಿಕಿತ್ಸೆ ನೀಡಿರುತ್ತೇನೆ. ಆ ಬಗ್ಗೆ ನಮ್ಮ ಆಸ್ಪತ್ರೆಯ ಎಂ ಎಲ್ ಸಿ ರಿಜಿಸ್ಟರ್ ಎಕ್ಸ್‌ಟ್ರಾಕ್ಟ್‌ನಲ್ಲಿ ಎಂಟ್ರಿ ಇರುತ್ತದೆ. ಆದರೆ ಸದರಿ ಗಾಯಾಳು ಮುಂದಿನ ಚಿಕಿತ್ಸೆಗೆ ಬೇರೆ ಆಸ್ಪತ್ರೆಗೆ ಹೋಗಿದ್ದರಿಂದ ಆತನ ಗಾಯದ ಸ್ವರೂಪವನ್ನು ನನಗೆ ಹೇಳಲಿಕ್ಕೆ ಆಗುವುದಿಲ್ಲ. ಆನಂತರ ಸದರಿ ಗಾಯಾಳು ಮುಂದಿನ ಚಿಕಿತ್ಸೆ ಪಡೆದು ನಮಗೆ ದಾಖಲೆಗಳನ್ನು ತಂದು ತೋರಿಸಿಲ್ಲ.

5. 1ನೇ ಗಾಯ ಸಾಮಾನ್ಯ ಸ್ವರೂಪದ್ದು ಆಗಿದ್ದರೂ ಸಹ ಅದನ್ನು ತೀವ್ರ ಸ್ವರೂಪದ್ದು ಎಂದು ಸುಳ್ಳು ಅಭಿಪ್ರಾಯ ಪತ್ರವನ್ನು ನೀಡಿರುತ್ತೇನೆ ಎನ್ನುವುದು ಸರಿಯಲ್ಲ. ಯಾವುದೇ ಗಾಯಾಳುವನ್ನು ಪರೀಕ್ಷೆ ಮಾಡಿದಾಗ ಅವರಿಗೆ ಗಾಯವಾದಂತಹ ಸ್ಥಳದಲ್ಲಿ ಮುಂಚೆ ಯಾವುದಾದರೂ ಗಾಯ ಆಗಿದ್ದರೆ ಆ ಬಗ್ಗೆ ನಮೂದಿಸುತ್ತೇವೆ ಎಂದರೆ ಸರಿ. ತುಂಬಾ ಹಳೆಯ ಗಾಯವಾಗಿದ್ದರೆ ಅದನ್ನು ಬರೆಯಲಾಗುವುದಿಲ್ಲ. ಅದನ್ನು ಕೇವಲ ಗುರುತಿನ ಸಲುವಾಗಿ ಬೇಕಿದ್ದರೆ ಮಾತ್ರ ನಮೂದಿಸಿರುತ್ತೇವೆ. ಗಾಯಾಳು ಚಿಕಿತ್ಸೆಗೆ ಬಂದಿದ್ದು ತಾಜಾ ಗಾಯಗಳಿಗಾಗಿದ್ದರಿಂದ ಅಷ್ಟನ್ನು ನಮೂದಿಸಿ ಚಿಕಿತ್ಸೆ ನೀಡಿರುತ್ತೇನೆ. ಸದರಿ ಪುಟ್ಟಲಕ್ಷ್ಮಮ್ಮನಿಗೆ ಮೊದಲೇ ಎಡತೋಳಿನ ಮೇಲೆ ಹಳೆಯ ಗಾಯವಾಗಿ ಹೊಲಿಗೆ ಹಾಕಿತ್ತು ಎಂದು ನಾನು ಗಮನಿಸಿರಲಿಲ್ಲ".

16. From the aforesaid deposition it becomes clear that the victim had only met the doctor once for the initial treatment and has apparently gone and taken treatment elsewhere and has not produced any records of her further treatment. It is also not clear if she was admitted in any hospital and she



suffered for a minimum period of 20 days not being able to pursue her normal ordinary activities as contemplated under the noting "Eighthly" under Section 320 of IPC.

17. The trial Court having acquitted persons of the charge of they committing the offence under Section 307 read with Section 304 and has only convicted the accused No.1-appellant herein for the offence punishable under Section 326 of IPC. In the light of there being no supporting medical evidence regarding nature of injury and further, no materials evidence be placed on record to show any motive except indicating the land dispute. This Court is of the considered view that prosecution has failed to prove the case of accused No.1-appellant causing grievous hurt to the victim for the offence punishable under Section 326 of IPC. However it cannot be said that the victim has not suffered any injury. Considering the nature of injury, the same can be classified as 'simple injury', falling within the provisions of Section of 324 of IPC.

18. Considering the age of the accused-appellant who is stated to presently aged about 85 years and background of the dispute, it does not appear that he is an habitual offender.



19. This Court therefore deems it appropriate to reduce and modify the judgment of conviction and sentence to one under Section 324 of IPC, instead of one under Section 326 of IPC. Therefore, following:

ORDER

(i). Appeal is ***allowed***.

(ii). Judgment of conviction and order on sentence dated 21.10.2019, passed in Special Case No.90/2014 on the file of Prl. Sessions Judge, Mandya is set aside.

(iii) The accused-appellant is hereby acquitted for the offence punishable under Section 326 of IPC, and is convicted of offence punishable under Section 324 of IPC.

(iv). However since the victim has sustained simple injuries, the fine amount which is stated to have been already paid shall be released in her favour.

(v) Bail bond and sureties, if any shall be cancelled.

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

RL/- List No.: 1 Sl No.: 7