



**IN THE HIGH COURT OF KARNATAKA AT DHARWAD**

**DATED THIS THE 25<sup>TH</sup> DAY OF FEBRUARY, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE V.SRISHANANDA**

**CRIMINAL APPEAL NO. 100239 OF 2016 (C)**

**BETWEEN:**

GOVIND S/O NAGAPPA GASTI,  
AGE: 42 YEARS, OCC: AGIRUCULTURE,  
R/O: LOKAPUR, TQ: MUDHOL,  
DIST: BAGALKOTE.

...APPELLANT

(BY SRI. VYAS DESAI, ADVOCATE FOR  
SRI. JAGADISH PATIL, ADVOCATE)

**AND:**

THE STATE OF KARNATAKA,  
C.P.I., MUDHOL CIRCLE,  
R/BY IT'S STATE PUBLIC PROSECUTOR,  
HIGH COURT OF KARNATAKA BENCH,  
AT: DHARWAD.

...RESPONDENT

(BY SRI. PRAVEENA Y. DEVAREDDIYAVARA, HCGP)



THIS CRIMINAL APPEAL IS FILED U/S 374(2) CR.P.C. SEEKING TO ALLOW THE APPEAL AND SET ASIDE THE AFORESAID JUDGMENT AND ORDER OF CONVICTION FOR THE O/P/U/S.333, 353, 504 AND 506 OF IPC DATED 16.08.2016 PASSED IN SESSIONS CASE NO.28/2014 ON THE FILE OF THE COURT OF THE I ADDL. DIST. AND SESSIONS JUDGE, BAGALKOT SITTING AT JAMAKHANDI, IN THE INTEREST OF JUSTICE.

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



**ORAL JUDGMENT**

(PER: THE HON'BLE MR. JUSTICE V.SRISHANANDA)

Presence of PW1 secured before the Court. Appellant is present before the Court.

2. Heard Sri Vyas Desai for Sri Jagadish Patil, learned counsel for appellant and Sri Praveena Y.Devareddiyavara, learned High Court Government Pleader for respondent.

3. Appeal filed by the accused who suffered an order of conviction in S.C.No.28/2014 dated 16.08.2016. Accused has been convicted and sentenced as under in the said case.

*"Acting U/s. 235(2) of Cr.P.C. accused is sentenced to undergo simple imprisonment for Seven years and to pay fine of Rs.5,000/- for the offence punishable U/s. 333 of IPC and in default to pay the fine he shall undergo simple imprisonment for a period of Six months.*

*Acting U/s. 235(2) of Cr.P.C. accused is sentenced to undergo simple imprisonment for Six months and to pay fine of Rs.500/- and in default to pay the fine he shall undergo simple imprisonment for a period of Two months for the offence punishable U/s. 353 of IPC.*

*Acting U/s. 235(2) of Cr.P.C. accused is sentenced to undergo simple imprisonment for Six months and to pay fine of Rs.500/- and in default to pay the fine he shall*



*undergo simple imprisonment for a period of Two months for the offence punishable U/s. 504 of IPC.*

*Acting U/s. 235(2) of Cr.P.C. accused is sentenced to undergo simple imprisonment for Six months and to pay fine of Rs.500/- and in default to pay the fine he shall undergo simple imprisonment for a period of Two months for the offence punishable U/s. 506 of IPC.*

*M.O.1 shirt being worthless is ordered to be destroyed after the appeal period is over.*

*All the sentences shall run concurrently."*

4. Facts in the nutshell which are utmost necessary for disposal of the present appeal are as under:

4.1 A complaint came to be lodged on 12.11.2013 by PW1 of Lokapur Police Station, by contending that when he was on the patrolling duty along with ASI near Lokapur Agasi, they found that accused was quarrelling with the petrol bunk persons about fifteen days earlier and when the accused was advised not to indulge in such quarrels, he picked up the quarrel with PW1 and abused him in filthy language and caught hold of his shirt and pulled him and assaulted him with hands on both the cheeks, ear and other parts of the body causing grievous hurt.



4.2 After receipt of the complaint by PW1, police registered the case and investigated the matter and filed the charge sheet for the offences punishable under Section 333, 353, 504, 506 IPC.

4.3 After receipt of charge sheet, learned trial Magistrate committed the matter to the Sessions Court for trial and learned Sessions Judge securing the presence of the accused, framed charges for the aforesaid offences.

4.4 Accused pleaded not guilty. Therefore, trial was held.

4.5 In order to bring down the guilt of the accused, ten witnesses have been examined and eleven documentary evidence were placed on record.

4.6 On conclusion of recording of the evidence, accused's statement as is contemplated under Section 313 Cr.P.C. was recorded wherein accused has denied all the incriminating circumstances and did not choose to place his version about the incident on record.



5. Thereafter, learned Sessions Judge heard the arguments of the parties and convicted the accused and sentenced as referred to supra.

6. Being aggrieved by the same, accused is before this Court in this appeal on following grounds.

- The Appreciation of the evidence and Judgment and Order of conviction passed in this case and the reasons assigned by the sessions Court are not in accordance with law; the court below has otherwise ignored the acceptable and trustworthy evidence placed on record, which has resulted in miscarriage of justice.
- It is submitted that the P.W No 3 to 6 are the independent eye witnesses to the incident and said eyes witnesses have turned hostile and have not supported the case of prosecution. In absence of eye witnesses, evidence against the accused/appellant are not tenable.
- It is submitted that the P.W 7, 8 and 10 have supported the case of the prosecution and said witness are police officer and thereby they are interested witnesses. The Sessions court only on the evidence of Pw. 7, 8 and 10 has convicted the appellant.
- It is submitted that P.W 9 is the doctor, who was examined to speak about the Injury Certificate. The said Doctor has neither treated the complainant nor has issued



the Injury Certificate. Therefore the evidence of P.W 9 ought to have been considered.

- It is submitted that the accused has not committed alleged offence as stated in the complainant, bare reading of the complainant makes it clear that there was some personal grudge against the appellant and the complainant using his authority has taken revenge against the appellant.
- It is submitted that the incident has taken place in public place and there are only 3 eye witness to the said incident and even those witness have supported the case of prosecution. If at all the alleged incident had taken place there would have been few more eye witness to the incident.
- The complainant in his compliant states that he was on patrolling duty. The incident has taken place, when he was on his duty along with his subordinate. If at all the said incident had taken place, the subordinate officer would have come to his rescue.
- The entire approach of the Court below and the reasons assigned for convicting the accused are contrary to law, evidence and material on record.

7. Sri Vyas Desai, learned counsel for the appellant reiterating the grounds urged in the appeal memorandum vehemently contended that a trivial incident has been blown out of proportion and there was no injury caused to PW1 by the



accused and the injuries are not on account of the incident that has been complained of by PW1, but on account of the fall by PW1 when he was on duty somewhere else and the same has been taken advantage to foist a false case against the appellant herein and sought for allowing the appeal.

8. Alternately, Sri Vyas Desai would contend that in the event of this Court upholding the order of conviction, this Court may consider the age of the present appellant who is eking out his livelihood by doing the labour work at Goa and he is maintaining the family and did not have any criminal antecedents and therefore, custody period of two months already undergone by him may be treated as period of imprisonment and by enhancing the fine amount reasonably which can be paid as compensation to the PW1, appeal can be allowed in part.

9. Per contra, Sri Praveena Y.Devareddiyavara, learned High Court Government Pleader supports the impugned judgment. He would further contend that PW1 did not nurture any previous enmity or animosity to falsely implicate the accused in incident. He would further contend that the injury sustained by PW1 is classified as grievous injury by the doctor who issued the



wound certificate marked at Exhibit P9 and therefore, sought for dismissal of the appeal.

10. Insofar as the alternate submission is concerned, Sri Praveena Y.Devareddiyavara would contend that in the event this Court accepting the alternate submission, there is every possibility that similarly placed accused persons would get encouraged by leniency shown to the appellant and therefore, sought for dismissal of the appeal in toto.

11. Having heard the arguments of both sides, this Court perused the material on record meticulously.

12. On such perusal of the material on record, following points would arise for consideration.

- i. Whether the prosecution has successfully established all ingredients to attract the offences punishable under Section 333, 353, 504, 506 IPC?
- ii. Whether the impugned judgment is suffering from legal infirmity and perversity and thus calls for interference?
- iii. Whether the sentence needs modification?



iv. What order?

***Regarding Points No.(i) and (ii):***

13. In the case on hand, PW1 is the Police Constable who was on patrolling duty along with ASI. On 12.01.2013, PW1 along with the ASI, told the complainant as to why he should stop quarrelling with the petrol bunk people and such quarrel had occurred about fifteen days earlier to 12.11.2013. At that juncture, the appellant herein said to have picked up the quarrel and abused PW1 in filthy language and held his shirt and pulled him down and thereafter, assaulted with hands on both the cheeks and near the ear. Wound certificate marked at Exhibit P9 contains following injuries.

*"Tenderness over LT cheek, neck pain, swelling;*

*Giddiness, vertigo, diminished hearing on LT ear, tinnitus  
(ringing noise in LT ear);*

*Chronic perforation of the tympanic membrane;*

*Examination of small central perforation with ragged edges.*

*Injuries due to forceful slap on cheek.*

*Age of injury - 1 day LT ear left hand.*



*Case of injury – In my opinion above injuries are grievous in nature.”*

14. The doctor who issued the wound certificate is examined as PW9. In the cross-examination of PW9, except suggesting that he has issued a false certificate and such injuries can be caused by accidental fall, no other material is elicited so as to disbelieve the case of the prosecution.

15. It is difficult to appreciate PW2 is the mahazar witness who supported the case of the prosecution.

16. PW3 is the circumstantial witness who deposed that he was working as an attendant in a petrol bunk at Lokapur. About three years earlier, when he was working in petrol pump, accused brought a bottle and asked him to fill the diesel in the said bottle. Thereafter, he picked up the quarrel with the petrol bunk people stating that the diesel is not pure and it is mixed with kerosene oil. About fifteen days later, near the entrance of Lokapura, he had heard that there was a quarrel between the appellant and the police and thereafter, he did not support the case of the prosecution.



17. So also PW4 did not support the case of the prosecution who is said to be an eyewitness to the incident.

18. PW5 is the Police Constable and PW6 is an independent witness who did not support the case of the prosecution.

19. PW7 was the ASI who accompanied PW1 and supported the case of the prosecution by deposing before the Court with graphic details.

20. PW8 is the Investigation Officer and PW9 is the doctor.

21. PW10 is the further Investigation Officer, who conducted further investigation and filed charge sheet.

22. Thus, as could be seen from the material on record, except the Police Constable and ASI and oral testimony of PW1, there is no independent evidence. There is a part support by PW3.

23. In the absence of any previous enmity and animosity between the complainant and the accused, why would the PW1



foist a false case against the appellant is a question that remains unanswered. However, to classify the injuries as grievous injuries, there is no positive material on record. Admittedly, accused has assaulted with hand.

24. Taking note of these aspects of the matter, the conviction order passed by the learned Sessions Judge needs no interference.

25. Learned counsel for the appellant is unable to point out any perversity or legal infirmity in recording the finding of guilt of the appellant for the aforesaid offences.

26. Hence, Points No.(i) and (ii) are answered in affirmative and negative respectively.

***Regarding Point No.(iii):***

27. Accused was in custody for a period of two months during the trial from 12.11.2013 to 20.12.2013 and again after the conviction from 16.08.2016 to 06.09.2016.

28. Taking note of the attendant facts and circumstances involved in the case on hand and in the absence of any criminal



antecedents, accused being the first time offender and injury as noted by the doctor in Exhibit P9 and also taking note of the fact that PW1 was on leave for a period of six days for treatment and since no compensation is awarded by the learned Sessions Judge in the impugned judgment for the injuries sustained by the accused, the sentence is modified by considering the custody period as a period of imprisonment for the proved offences by enhancing the fine amount in a sum of ₹80,000/-, ends of justice would be met.

29. Out of the enhanced fine amount of ₹80,000/-, a sum of ₹75,000/- is ordered as compensation to PW1, ends of justice would be further served. ₹5,000/- is awarded to defraying expenses of State. Accordingly, Point No.(iii) is answered partly in the affirmative.

***Regarding Point No.(iv):***

30. In view of finding on Points No.(i) to (iii), following order is passed.

**ORDER**

- i. Appeal is allowed in part.



- ii. While maintaining the conviction of the appellant for the offences punishable under Sections 333, 353, 304 and 506 IPC, custody period already undergone by the appellant for a period of two months during the trial from 12.11.2013 to 20.12.2013 and again after the conviction from 16.08.2016 to 06.09.2016 is treated as period of imprisonment by enhancing the fine amount in a sum of ₹80,000/- payable on or before 10.03.2026.
- iii. On receipt of the fine amount, sum of ₹75,000/- is ordered to be paid as compensation to PW1-Basavaraj Rangappa Muranal under due identification.
- iv. Receipt of compensation amount shall not affect the service conditions of PW1.
- v. Failure to pay the fine amount on or before 10.03.2026 would result in the restoration of the sentence as ordered by the trial Judge automatically.
- vi. Office is directed to return the trial Court records with copy of this judgment forthwith.

**Sd/-**  
**(V.SRISHANANDA)**  
**JUDGE**