

**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

**CRIMINAL APPEAL NO.200268 OF 2024
(372(Cr.PC)/413 (BNSS))**

BETWEEN:

KUNDAN S/O CHANDRAPPA AINALLI
AGE: 51 YEARS, OCC: BUSINESS
R/O CHITGUPPA, TQ: BASAVAKALYAN
DIST: BIDAR-585401.

...APPELLANT

(BY SRI. SANJAY A. PATIL, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH CHITGUPPA POLICE STATION
DIST: BIDAR-585401.
REPRESENTAED BY ADDL. SPP
HIGH Court OF KARNATAKA
KALABURAGI BENCH-585107
2. SANDEEP S/O PRAKASH METRE
AGE: 28 YEARS, OCC: LABOUR
3. PRADEEP S/O SHARANAPPA METRE
AGE: 33 YEARS, OCC: LABOUR
4. PRAVEEN S/O SHARANAPPA METRE
AGE: 37 YEARS, OCC: LABOUR
5. PRASANNA S/O SHARANAPPA METRE
AGE: 30 YEARS, OCC: LABOUR
6. SHARANAPPA S/O MAEPPA METRE
AGE: 65 YEARS, OCC: LABOUR

7. KALAVATI W/O SHARANAPPA METRE
AGE: 60 YEARS, OCC: LABOUR

ALL R/O OF YESU NAGAR
TQ: CHITGUPPA, DIST: BIDAR -585412.

...RESPONDENTS

(BY SRI. JAMADAR SHAHABUDDIN, HCGP FOR R1;
SRI. B.V. PINTO ADV., FOR
SRI. GANESH NAIK ADV., FOR R2 TO R7)

THIS CRL.A IS FILED U/SEC. 372 OF CR.P.C (OLD) U/SEC.413 OF BNSS (NEW), PRAYING TO A) ADMIT THE APPEAL, CALL FOR THE LOWER COURT RECORDS; B) SET ASIDE THE IMPUGNED JUDGMENT OF ACQUITTAL DATED: 21.09.2024 PASSED BY THE II ADDL. DISTRICT AND SESSIONS JUDGE BIDAR SITTING AT BASAVAKALYAN IN CRL. A NO.5022/2023 ON ITS FILE AND ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 17.04.2026 AND COMING ON FOR "PRONOUNCEMENT OF ORDERS" THIS DAY, THE COURT, DELIVERED THE FOLLOWING:

CAV JUDGMENT

The appellant-complainant has preferred this appeal against the judgment of acquittal passed by the II-Addl. Dist. & Sessions Judge, Bidar sitting at Basavakalyan (for short, the First Appellate Court') in Crl.A.No.5022/2023 dated 21.09.2024.

2. For the sake of convenience, the parties are referred to as per their rank before the Trial Court.

3. Brief facts leading to filing of this appeal is that, the respondent-police have laid charge-sheet against the accused for the offences punishable under Sections 143, 147, 148, 323, 324, 326, 504, 506 read with Section 149 of IPC. It is alleged by the prosecution that, on 02.01.2018 at about 12:00 p.m. near Chakradari chowk, Chitguppa, CW.1 was standing which is within the jurisdiction of Chitguppa police station, at that time all the accused persons constituting unlawful assembly by holding stick in their hands, came in the auto rickshaw bearing Reg.No.AP-09/1294 and started to abusing informant in a filthy language and accused No.1 assaulted informant with stick on his head, accused No.2 assaulted informant with stick on his left hand and caused grievous injury to the informant. Thereafter, accused No.3 also assaulted informant with stick on his thigh and right leg. Accused No.4 assaulted informant and accused No.5 and 6 assaulted informant with hands on his back. Thus, the accused have committed the alleged commission of offences. After filing charge-sheet, case was registered in

C.C.No.260/2018. Accused were appeared before the Trial Court and enlarged on bail.

4. On hearing arguments, charges framed for the alleged commission of offences. The same was read over and explained to the accused. Having understood the same, the accused pleaded not guilty and claimed to be tried.

5. To prove the guilt of the accused, the prosecution in all has examined 7 witnesses as PWs.1 to 7 and got marked 24 documents as Exs.P1 to P24 and material objections as MO.1 to 7. On closure of prosecution side evidence, the statement under Section 313 of Cr.P.C. was recorded. The accused have denied the incriminating evidence against them. However, they did not lead any defence evidence on their behalf.

6. Having heard the arguments on both sides, the Trial Court has convicted the accused Nos.1 to 6 for the offences punishable under Sections 143, 147, 148, 323, 324, 326, 504, 506 read with Section 149 of IPC and passed sentence. Being aggrieved by this judgment of

conviction and order on sentence, the accused have preferred appeal before the II-Addl. Dist. & Sessions Judge, Bidar sitting at Basavakalyan in Crl.A.No.5022/2023. The same came to be allowed and accused are acquitted for the alleged commission of offences vide order dated 21.09.2024. Being aggrieved by this judgment of acquittal, the complainant-victim has preferred this appeal under Section 413 of BNSS, 2023.

7. The learned counsel for the appellant would submits that the Judgment of acquittal passed by the Appellate Court is arbitrary and contrary to the settled legal principles of law and also against the given set of facts. Thus the Judgment of acquittal deserves to be set aside.

8. The First Appellate Court has failed to appreciate the fact that evidence of the injured as well as eyewitnesses corroborate each other and further that the doctor who has examined as PW.6 has also referred to the injury as grievous in nature, sustained by the

informant/CW.1. Thus the Judgment of acquittal deserves to be set aside.

9. The First Appellate Court has failed to appreciate that the evidence of injured/PW.1 and independent eyewitness/PW.3 their evidence have corroborated each other to the alleged incident and further that the injuries sustained by PW.1 is explained and treated by the doctor PW.1 who has mentioned the nature of injuries as per wound certificate Ex.P22, wherein PW.1 has sustained as many as 6 injuries out of which injury No.2 is grievous in nature. Hence, when there is prima-facie and sufficient material to convict the Accused, the First Appellate Court has erroneously acquitted without proper re-appreciation of evidence as such the same deserves to be set aside.

10. The First Appellate Court in a mechanical and on surmises has wrongly interpreted the evidence of the prosecution witnesses and has further gone to the extent of holding that only one stick as MO.1 is produced and marked leaving behind 3 other alleged sticks held by the

other Accused persons and hence it has created doubt but however MO.5 to 7 i.e. 3 other sticks were got marked subsequently and hence those material objects are planted objects, giving benefit of MO.5 to 7 the First Appellate Court has extended the benefit of doubt to the Accused and has wrongly acquitted the Accused.

11. The First Appellate Court has referred number of Judgments of Hon'ble Apex Court and other High Courts and has proceeded to acquit the Accused ignoring the facts that the set of facts on hand and its evidence were not similar to the set of facts held in the Judgments, that being so the First Appellate Court has wrongly acquitted the Accused.

12. Viewed at any angle the impugned Judgment of acquittal dated: 21.09.2024 passed in Crl. A. No.5022/2023 deserves to be set aside since there are legal infirmities and wrong re-appreciation of material evidence. On all these grounds sought for allow this petition.

13. As against this, learned counsel Sri. B.V. Pinto would submit that the evidence of PW.1, the injured, before the Court is contradictory to Exhibit P22 wound certificate, as observed in paragraph No.13 of the appellant Court's judgment. PW.1, though conscious, has not stated the names of the assailants, who are from the same locality, before the doctor who examined him on the same day. PW.3 Nagesh is said to be an independent witness. However, he has deposed that his daughter Vulkarani was married to accused No.3 and ended in divorce. After the divorce, he has enmity with the accused. PW.3 Nagesh in his evidence stated that there were about 50 to 60 persons at the spot who had come for the funeral of one Tipanna. However, no independent witnesses are cited or examined before the Court. PW.3 is related to PW.1. Clothes worn by the injured, MO.No.2 to 4, were directly produced in court after two years. The same was not subjected to FSL examination. The weapons MO.No.1 and 5 to 7 were not sent for FSL examination. The IO for seizure of weapons is not examined, and the State has not filed any appeal challenging the judgment of acquittal. The

Appellate Court has properly appreciated the evidence on record in a proper perceptive manner. Absolutely there are no grounds to interfere with the impugned judgment of acquittal passed by the Appellate Court. To substantiate his argument, he relied on the decision in the case of ***Chandrappa and others Vs. State of Karnataka***.

14. The learned counsel for the appellant has submitted his reply arguments that the decision of the Hon'ble Apex Court in the case of ***Chandrappa and others Vs. State of Karnataka*** is not applicable to the case on hand, as in the instant case, the trial court has convicted the accused, but the same was reversed by the Appellate Court. Hence, this decision is not applicable. On all these grounds, the appellant seeks that this appeal be allowed.

15. Having heard the arguments on both sides, the following points would arise for my consideration:

- (i) Whether the Appellate Court is justified in acquitting the accused?
- (ii) What order?

16. My findings to the above points are as under:

Point No.1: In the Affirmative

Point No.2: As per the final order

Regarding Point No.1:

17. I have examined the material placed before this Court.

18. Before appreciation of evidence and record, it is necessary to mention as to the judgments in the cases arising out of Judgment of acquittal. The Hon'ble Apex Court in the Case of *Constable 907 Surendra Singh and Another v. State of Uttarakhand* reported in (2025)5 SCC 433; *Babu Sahebgouda 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 vs. 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."

19. 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."

20. The Investigating Officer has submitted the charge-sheet against the accused for the commission of offences under Sections 143, 147, 148, 323, 324, 326, 504, 506 read with Section 149 of the IPC. It is alleged by the prosecution that on 02.01.2018 at about 12.00 p.m., near Chakradhari Chowk, Chitaguppa, CW.1 was standing which is within the jurisdiction of Chitaguppa Police station, at that time all the accused persons constituting

unlawful assembly by holding stick in their hands, came in the Auto rickshaw bearing registration No.AP-09/1294 and started to abuse the informant in a filthy language and accused No.1 assaulted complainant with stick on his head. Accused No.2 assaulted the complainant with stick on his left hand and caused grievous injury to the complainant. Thereafter, accused No.3 also assaulted him with stick on his thigh and right leg. Accused Nos.4 to 6 assaulted with hands on his back. Accused No.1 gave life threat to the informant. Thus, the accused have committed aforesaid offences.

21. To prove the guilt of the accused, the prosecution has examined seven witnesses as PW.1 to PW.7, twenty four documents were marked as Exs.P.1 to P.24 and seven material objects were marked as MO.1 to MO.7.

22. The genesis of the case arise out of the complaint at Ex.P.1 filed by P.W.1 Kundan. In the complaint it is stated as under:

“ನಾನು ಕುಂದನ ತಂದೆ ಚಂದ್ರಪ್ಪಾ ಐನಳ್ಳಿ, ವಯ: 45 ವರ್ಷ,
ಜಾ: ಕ್ರಿಶ್ಚನ್, ಉ: ವ್ಯಾಪಾರ, ಸಾ|| ಯಶುನಗರ, ಚಿಟಗುಪ್ಪ,
ತಾ|| ಹುಮನಾಬಾದ.

ನಾನು ಮೇಲೆ ನಮೂದು ಮಾಡಿದ ವಿಳಾಸದವನಿದ್ದು ವ್ಯಾಪಾರ
ಕೆಲಸ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನನ್ನ ಹತ್ತಿರ ಒಂದು ಕಾರ ಇದ್ದು ಅದರ
ಮೇಲೆ ನಮ್ಮ ಓಣಿಯ ಚಂದ್ರಕಾಂತ ಧರಧರೆ ಕಾರ ಚಾಲಕ ಇರುತ್ತಾನೆ. ಈ
ಮೊದಲು ನಮ್ಮ ಕಾರ ಚಾಲಕನ ಮತ್ತು ಸಂದೀಪ ಮೇತ್ರೇರವರ ಮಧ್ಯೆ
ಜಗಳವಾಡಿದಾಗ ನಾನು ನಮ್ಮ ಕಾರ ಚಾಲಕನೊಂದಿಗೆ ರಾಣಿಗೆ
ಬಂದಿರುತ್ತೇನೆ.

ಹೀಗಿರುವಾಗ ಇಂದು ದಿ. 02.01.2018ರಂದು ಮಧ್ಯಾಹ್ನ 12.00
ಗಂಟೆಯ ಸುಮಾರಿಗೆ ನಾನು ನಮ್ಮ ಓಣಿಯ ತಿಪ್ಪಣ್ಣ ಮೇತ್ರ
ಮೃತವಾಗಿದ್ದರಿಂದ ಅವರ ಅಂತ್ಯಕ್ರಿಯೆಗೆ ಹೋಗಲು ನಮ್ಮ ಓಣಿಯ
ಚಕ್ರಧಾರಿ ಚೌಕ ಹತ್ತಿರ ನಾನು ಇದ್ದಾಗ ನಮ್ಮ ಓಣಿಯ ಸಂದೀಪ ತಂದೆ
ಪ್ರಕಾಶ ಮೇತ್ರ, ಪ್ರದೀಪ ತಂದೆ ಶರಣಪ್ಪ ಮೇತ್ರ, ಪ್ರವೀಣ ತಂದೆ ಶರಣಪ್ಪ
ಮೇತ್ರ, ಪ್ರಸನ್ನ ತಂದೆ ಶರಣಪ್ಪ ಮೇತ್ರ, ಶರಣಪ್ಪ ಮೇತ್ರ ಮತ್ತು ಕಲಾವತಿ
ಗಂಡ ಶರಣಪ್ಪ ಮೇತ್ರ ಎಲ್ಲರೂ ತಮ್ಮ ತಮ್ಮ ಕೈಗಳಲ್ಲಿ ಬಡಿಗೆ
ಹಿಡಿದುಕೊಂಡು ಆಕ್ರಮಕೂಟ ರಚಿಸಿಕೊಂಡು ಬಂದು ಆಟೋ
ನಂ. AP-9-T-1294 ನೇದ್ದರಲ್ಲಿ ಬಂದವರೆ ನನಗೆ "ಏ ಕುಂದನಾ ಸೂಳೇ
ಮಗನೆ ಈ ಮೊದಲು ನಮ್ಮ ಮೇಲೆ ಸುಳ್ಳು ಕೇಸು ಮಾಡಿಸುತ್ತಾ ರಂಡಿ
ಮಗನೆ ಅಂತಾ ಬೈದು ಸಂದೀಪನು ಬಡಿಗೆ ಹಿಡಿದು ನನ್ನ ತಲೆಯಲ್ಲಿ ನಾಲ್ಕು
ಸಾರಿ ಹೊಡೆದು ರಕ್ತಗಾಯ ಮಾಡಿರುತ್ತಾನೆ. ಪ್ರದೀಪನು ಬಡಿಗೆಯಿಂದ
ನನ್ನ ಎಡಗೈ ಮೇಲೆ ಹೊಡೆದಿದ್ದು ಅದರಿಂದ ನಡುಬೆರಳು ಮುರಿದಂತೆ
ಭಾರಿ ಗುಪ್ತಗಾಯ ಹಾಗೂ ತೋರು ಬೆರಳಿಗೆ ರಕ್ತಗಾಯ ಮತ್ತು ಮುಂಗೈಗೆ
ಗುಪ್ತಗಾಯ ಪಡಿಸಿರುತ್ತಾನೆ. ಪ್ರವೀಣನು ಬಡಿಗೆಯಿಂದ ನನ್ನ ಎರಡು
ತೊಡೆಗಳ ಮೇಲೆ ಮತ್ತು ಬಲಮೊಳಕಾಲ ಕೆಳಗೆ ಹೊಡೆದು ಗುಪ್ತಗಾಯ
ಪಡಿಸಿರುತ್ತಾನೆ. ಪ್ರಸನ್ನನು ಬಡಿಗೆಯಿಂದ ನನ್ನ ಬೆನ್ನಿನ ಮೇಲೆ ಹೊಡೆದು
ಗುಪ್ತಗಾಯ ಪಡಿಸಿರುತ್ತಾನೆ. ಶರಣಪ್ಪ ಮೇತ್ರ ಮತ್ತು ಅವನ ಹೆಂಡತಿ
ಕಲಾವತಿ ಮೇತ್ರೇರವರು ಕೈಯಿಂದ ಮುಖದ ಮೇಲೆ ಬೆನ್ನಲ್ಲಿ ಹೊಡೆದು

ಗುಪ್ತಗಾಯ ಪಡಿಸಿರುತ್ತಾರೆ. ಸಂದೀಪನು ನನಗೆ ನೀನು ಇನ್ನೊಂದು ಸಲ ನನ್ನ ಹೆಸರಿಗೆ ಬಂದರೆ ನಿನಗೆ ಖಲಾಸ ಮಾಡುತ್ತೇನೆ ಅಂತಾ ಜೀವದ ಬೆದರಿಕೆ ಹಾಕಿರುತ್ತಾನೆ. ಆಗ ಅಲ್ಲಿಯೇ ಇದ್ದ ನಮ್ಮ ಓಣಿಯ ಶಿರೋಮಣಿ ತಂದೆ ಮಾಪಣ್ಣಾ ಧರಧರೆ ಮತ್ತು ನಾಗೇಶ ತಂದೆ ಮಸ್ತಾನಪ್ಪ ಗಡದೂರವರು ಜಗಳ ನೋಡಿ ಬಿಡಿಸಿಕೊಂಡು ನನಗೆ ಒಂದು ಖಾಸಗಿ ವಾಹನದಲ್ಲಿ ಚಿಕಿತ್ಸೆಗಾಗಿ ಚಿಟಗುಪ್ಪಾ ಸರಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ತಂದು ಸೇರಿಕೆ ಮಾಡಿರುತ್ತಾರೆ.

ಕಾರಣ ನನಗೆ ಇಂದು ದಿ.02.01.2018ರಂದು 12.00ಗಂಟೆಗೆ ಚಕ್ರಧಾರಿ ಚೌಕ ಹತ್ತಿರ ಅಕ್ರಮಕೂಟ ರಚಿಸಿಕೊಂಡು ಬಂದು ಬಡಿಗೆಯಿಂದ ಕೈಯಿಂದ ಹೊಡೆದವರ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಲು ವಿನಂತಿ.”

23. PW.1 Kundan S/o Chandrappa has deposed in his evidence that on 02.01.2018 one Tippanna died at Chakradhari Mohalla, Chitaguppa. He went for funeral at 12-00 p.m. The accused came in an auto bearing registration No.AP-09/1294. Accused No.1 abused him in a filthy language and gave blow to him with stick on his head, causing bleeding injury. Accused No.2 gave blow to him with stick on his left hand and caused fracture to middle figure. Accused No.3 gave blow to him with stick on his leg. Accused No.4 gave blow to him with the same stick on his back and accused Nos.5 and 6 gave blow to him with hands. Then, CW.4 and CW.5 intervened and pacified quarrel and they shifted him to the Government

Hospital, Chitaguppa. While he was taking treatment, the police came and recorded statement as per Ex.P.1 and he identified MO.1 and Exs.P.1 to 17.

24. P.W.2 Samsang Devappa Jayil has deposed in his evidence as to the Panchanama at Ex.P.20 and he identified MO.1 to MO.4. PW.3 Nagesh Mastanappa Gaddador has deposed in his evidence that on 02.01.2018 one Tippanna had died in their Oni and he and CW.4 were standing near Chakradhari Chowk to go to funeral of said Tippanna. By that time, CW.1 also came to attend the funeral of Tippanna. Accused Nos.1 to 6 came in an auto by holding sticks in their hands in a group and abused CW.1 and accused No.1 gave blow to CW.1 with stick. Accused No.2 assaulted CW.1 and caused fracture to his left middle figure. Accused No.3 gave blow on his right thigh. Accused No.4 assaulted CW.1 with stick on his back and accused Nos.5 and 6 assaulted him with hands on all over the body. The accused also threatened CW.1 with death, stating that they will kill him. Then he and CW.4 intervened and separate quarrel and shifted CW.1 to the

Government Hospital, Chitaguppa. At the time of panchanama, he was present and shown the spot.

25. P.W.4 Dr. Aaga Naseer Ahmed S/o Nisar Ahmed has deposed as to the examination of the injured and treatment extended to CW.1 and found injuries as per Ex.P.22.

26. PW.5 Bheemarao S/o Gangaram, the head constable has deposed in his evidence that on 15.03.2018, in the evening as per the order of CW.11, he inspected the house of accused No.6 and she was not found in her house and he came to know that accused No.6 was absconding. In this regard, he has submitted the report to CW.11 as per Ex.P.23.

27. PW.6 Dr. Badmaraj S/o Kanchana has deposed in his evidence that on 02.01.2018, CHC of Chitaguppa Government Hospital have referred CW.1 for further treatment. He has not found any fracture on chest and he has found the fracture of left forearm and middle figure and he has not found any fracture on head and he has issued a certificate as per Ex.P.24.

28. P.W.7 Prashant Yatnoor has deposed as to his part of investigation.

29. On careful examination of the entire evidence on record, I do not find any evidence to prove the guilt of the accused for the offences punishable under Sections 143, 147 read with Section 149 of IPC.

30. With regard to the other offences are concerned, the alleged incident took place on 02.01.2018 at 12-00 p.m. That on 02.01.2018, the police have received MLC intimation at 12-30 p.m. Then CHC 551 went to the hospital and recorded statement of the injured and on that basis, he has registered a case in Crime No.1/2018 against accused Nos.1 to 6 for the offences punishable under Sections 143, 147, 148, 323, 324, 326, 504, 506 read with Section 149 of the IPC and submitted the FIR to the court on 02.01.2018 at 04-30 p.m. The MLC report sent by the concerned medical officer to the police has not been produced by the Investigating Officer. Ex.P.22 is the wound certificate pertaining to PW.1 which reveals that the injured was admitted to the hospital on 02.01.2018

with history of assault. The name of the accused, who have assaulted the injured and the weapons used for commission of offence have not been disclosed in wound certificate at Ex.P.22. The registration of MLC is also not disclosed in the wound certificate. The doctor, who has examined the injured PW.1 has not deposed as to the registration of MLC and intimation to the police. PW.4 has not deposed anything against the accused. PW.4 has not whispered anything as to why he has not mentioned the names of the accused, who have assaulted the injured and why he has not enquired in this regard. PW.4 has also not disclosed as to the non-mentioning of the weapons in the wound certificate said to have been used for the commission of offence. PW.3 Nagesh has deposed that 50-60 persons were present at the spot for Tippanna's funeral. Further the Investigating Officer has not examined any independent witness to substantiate the case of the prosecution.

31. Ex.P.22 wound certificate reveals that the injured has sustained the following injuries:

"1. Fracture of base of 5th Metacarpal bone noted.

Other injuries are

2. A lacerated wound is present on back of head.

3. Abrasion wound is present on mid of head (size 2x1cm)

4. Abrasion wound is present on right and left knee joint."

32. Ex.P.24 chest X-ray opinion report reveals that right knee with leg, elbow right hand, left should and fracture of the base of 5th metacarpal bone noted. The doctor has opined that no fracture seen. CT abnormally not defected in brain noted- fracture seen. A perusal of the Ex.P.24 it is clear that except fracture of 5th metacarpal bone, all other injuries are simple in nature. The doctor has opined that all the injuries are grievous in nature which is not correct. In complaint, it is stated that the middle figure of PW.1 was fractured. The evidence of PW.1 and PW.3 is not consistent with the contents of wound certificate and evidence of PW.4 also. Accused No.3 divorced the daughter of PW.3 long back. Hence, PW.3 is interested witness. The evidence of PW.1 and 3 is not consisted with the medical evidence and the evidence of

PW.1 has not been corroborated by any other independent witnesses. Therefore, in the absence of independent witnesses, the evidence of PW.1, PW.3 and medical evidence cannot be believed.

33. With regard to production of Exs.P.2 to 18 are concerned, these documents were not produced by the Investigation Officer at the time of filing the chargesheet on 02.03.2020. After lapse of more than two years, the public prosecutor has filed an application under Section 242 of Cr.P.C. to produce these documents and same was allowed by the Court and thereafter, the same were produced through PW.1. Thereafter, the same were marked as Exs.P.2 to 18. MO.2 to 4 were not seized by the police and PW.1 himself has produced the same at the time of evidence. MO.2 to 4 were not sent to the FSL examination. The serology report also not obtained by the Investigating Officer. Mere production of Exs.P.2 to 18 and MO.2 to MO.4 at the time of evidence of PW.1 are not sufficient to substantiate the case of the prosecution. The Investigating Officer has not whispered anything as to the

non-seizure of Exs.P.2 to 18 and MO.2 to MO.4. This conduct of the Investigating Officer and delay in producing the documents by filing an application before the Court after lapse of more than two years from the date of chargesheet, will create reasonable doubt as to the case of the prosecution.

34. Considering all these lapses, the Appellate Court has rightly held that the prosecution has failed to prove the guilt of the accused beyond all reasonable doubt.

35. On re-appreciation, re-examination and reconsideration of the entire material on record, I do not find any legal or factual error in the judgment of acquittal passed by the Appellate Court. Considering the facts and circumstances of the case and also keeping in mind the aforesaid decision of the Hon'ble Apex Court and also decision relied by the learned counsel for the respondents, I am of the considered opinion that the appellant has not made out grounds to interfere with the judgment of acquittal. Hence, I answer point No.1 in the Affirmative.

Regarding Point No.2:

36. For the aforesaid reasons and discussions, I proceed to pass the following:

ORDER

- (a) The Criminal Appeal is ***dismissed***.
- (b) The Registry is directed to send a copy of this judgment to the Trial Court along with TCR.

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

SDU/TIN/RSP