

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 13TH DAY OF JANUARY, 2026
BEFORE
THE HON'BLE MR. JUSTICE G BASAVARAJA
CRIMINAL APPEAL NO.902 OF 2014**

BETWEEN:

1. UMESH BABU T.S @ UMESH,
S/O SHIVARAMA,
AGED ABOUT 25 YEARS,
2. SHRINIVASAGOWDA,
S/O SUBBEGOWDA,
AGED ABOUT 68 YEARS,
3. SHIVARAMU,
S/O SUBBEGOWDA,
AGED ABOUT 58 YEARS,
APPELLANTS NOS.1 TO 3 ARE
RESIDENTS OF TENGINABHAGA VILLAGE,
HOONAKERE HOBLI,
NAGAMANGALA TALUK - 576163,
(NOW IN JUDICIAL CUSTODY)

...APPELLANTS

(BY SRI A H BHAGAVAN, ADVOCATE)

AND:

STATE OF KARNATAKA,
BY NELAMANGALA RURAL POLICE,
REPRESENTED BY HE STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BANGALORE-560 001.

...RESPONDENT

(BY SRI B LAKSHMAN, HCGP)

THIS CRL.A. IS FILED U/S. 374(2) CR.P.C BY THE ADV., FOR THE APPELLANTS PRAYING THAT THIS HON'BLE COURT MAY BE PLEASSED TO SET ASIDE THE ORDER DATED:17.10.14 PASSED BY THE I ADDL. DIST. AND S.J., MANDYA IN SPL.C.NO.50/13 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 504, 323, 324, 326 R/W 34 OF IPC AND U/S 3(II)(V) OF SC/ST (POA) ACT 1989 R/W 34 OF IPC AND ETC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 16TH DECEMBER, 2025 AND COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

CAV JUDGMENT

The appellants have preferred this appeal against the judgment of conviction and order on sentence passed by the I Additional District and Session Judge, Mandya in a Special Case No.50/2013 dated 17.10.2014.

2. The parties herein are referred to as per their rank and status before the trial Court.

3. Brief facts leading to this appeal are that the Deputy Superintendent of Police, Mandya Sub-division, Mandya submitted charge sheet against the accused for the offence punishable under Sections 504, 326, 323, 114, 324, 506 read with Section 34 of Indian Penal Code (for short 'IPC') and under Sections 3(1)(x), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST (POA) Act').

4. It is alleged by the prosecution that on 20.05.2013 at about 08.30 P.M. in Thenginabhaga Village in Nagamangala Taluk, when the complainant-Shruthi and her parents Javaraju

and Puttamma, who are CW2 and CW3, were talking with each other in front of their house, at that time accused 1 to 3 with respect to ill-will regarding aquaculture in the tank of Tenginabhaga Village and with an intention of giving torture, had been to the house of the complainant and her parents and accused No.1 abused CW.2-Javaraju in filthy language knowing fully well that he belongs to Scheduled Caste community by referring to his caste as, 'ಹೊಲಿಯ ನನ್ನ ಮರನೆ', humiliated him in public view as he had filed a case before the Court with regard to the aquaculture and when he told that he has not filed case, all the accused abused him and accused No.1 assaulted him with a reaper patti on his legs, nose and hands and caused bleeding injuries to him; accused No.2 also assaulted him with his hands. At that time, CW3-Puttamma, wife of CW2 tried to separate the scuffle. Accused No.3 instigated accused 1 & 2, and accused No.3 caught hold of CW.3-Puttamma and dragged her and kicked her and caused and grievous hurt. Thereafter, complainant has taken CW2 and CW3 to the Government Hospital and thereafter went to the Police Station and filed a complaint, based upon which the Nagamangala Rural Police registered a case and the Deputy Superintendent of Police, Mandya, took-up further investigation and collected the

evidence and submitted charge-sheet against the accused for the aforesaid offences. The accused were enlarged on bail.

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

6. To prove the guilt of the accused, in all, 13 witnesses were examined as PWs1 to 13. Ten documents were marked as Exhibits P1 to P10. Three material objects were marked as MOs.1 to 3. On closure of prosecution side evidence, statement of the accused under Section 313 of Code of Criminal Procedure was recorded. Accused have totally denied the evidence of prosecution witnesses, however, have filed written statement stating that there is a civil dispute between the complainant and Kalabyraveswara Yuvakara Sangha and his brother is the Secretary of that Sangha, and the complainant, due to intoxication, fell in front of his house and sustained injury. Complainant is the member of Dalita Sangha and received compensation. The complainant filed false complaint and also produced the copy of the judgment of Regular Appeal. However, the accused have not led any

defence evidence.

7. Having heard the arguments on both sides, the trial Court convicted accused 1 to 3 for the offence under Sections 504, 323, 324, 326 read with Section 34 of IPC and Section 3(2)(v) of SC/ST (PoA) Act and acquitted accused 1 to 3 for the offence punishable under Sections 114, 506 read with Section 34 of IPC and under Section 3(1)(x) of SC/ST (POA) Act. Being aggrieved by the judgment of conviction order on sentence passed, the accused have filed this Criminal Appeal.

8. Sri A.H. Bhagavan, learned counsel appearing for the appellants would submit that the judgment of conviction and order on sentence passed by learned Special Judge is opposed to law, facts and probabilities of the case. The learned Special Judge erred in convicting the appellants placing reliance on interested witnesses of the prosecution. PWs1, 2 and 3 are highly interested and partisan witnesses. Apart from that, the evidence of prosecution witnesses contradict with each other. PWs4, 5 and 8 to 10 who are independent witnesses, have not supported the prosecution case. They have turned hostile. There is no corroboration to evidence of PWs.1 to 3. The learned Special Judge has not considered the cross-examination of PWs1 to 3. There is enormous delay in lodging

the compliant with Police. It is alleged that incident has taken place on 20.05.2013 at about 20:30 hours and complaint came to be lodged on 21.05.2013 at about 00:30 hours.

9. PW5-the Doctor who treated PW2, has not noticed any external injuries. PW5 has noticed bleeding from nostrils of PW2 and pain in shoulder when touched. Thereafter, PW2 was sent to ENT Surgeon and X-ray was taken. As per X-ray report PW2 had sustained fracture. PW5-Dr. S.J. Swamy, admittedly, is not an ENT Surgeon or Specialist nor he is Radiologist. That apart, X-ray report is not produced or marked before the Court. Mere statement of PW5 that PW2 has sustained grievous injury is not sufficient. Hence, he submitted that the impugned judgment of conviction and order on sentence is not in accordance with law and facts. On all these grounds, he sought to allow the appeal.

10. Per contra, Sri B. Lakshman, learned High Court Government Pleader appearing for the respondent-State, would submit that the trial Court has properly appreciated the evidence on record in accordance with law and facts. Absolutely, there are no materials to interfere with the impugned judgment of conviction and order on sentence passed by the trial Court and hence, sought for dismissal of the

appeal.

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

(i) Whether the appellants have made out a ground to interfere with the impugned Judgment of conviction and order on sentence passed by the Trial Court?

(ii) What order?

Regarding Point No.1:

12. I have carefully examined the materials placed before this Court.

13. The genesis of the case arise from Exhibit P1-complaint filed by PW1-Shruti, in which it is stated as under:

"ನಾಗಮಂಗಲ ||ತಾ|| ಹೊಣಕೆರೆ ||ಹೋಬಳಿ|| ತೆರಿನಭಾಗ ಗ್ರಾಮದಲ್ಲಿ ಪಲಿಶಿಷ್ಟ ಜನಾಂಗ (ಎಸ್.ಸಿ.) ರವರಾದ ಜವರಾಜುರವರ ಮಗಳಾದ ಶೃತಿಯಾದ ನಾನು ಬರೆದು ಕೊಟ್ಟ ಕಂಪ್ಲೇಂಟ್ ಏನೆಂದರೆ ದಿನಾಂಕ: 20.05.2013 ರಂದು ಸುಮಾರು ಸಮಯ ರಾತ್ರಿ 8:30 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ನಾನು ಮತ್ತು ನಮ್ಮ ತಂದೆ ಜವರಾಜು ನಮ್ಮ ತಾಯಿ ಪುಟ್ಟಮ್ಮ ರವರು ನಮ್ಮ ಮನೆ ಮುಂಭಾಗ ಕುಳಿತುಕೊಂಡಿದ್ದೆವು. ನಮ್ಮ ಮನೆಯ ವಿಚಾರದಲ್ಲಿ ನಮ್ಮ ತಂದೆಯವರು ಸ್ವಲ್ಪ ಗಟ್ಟಿಯಾಗಿ ಮಾಡನಾಡುತ್ತಿದ್ದರು. ಆ ವೇಳೆಗೆ ನಮ್ಮ ಗ್ರಾಮದ ವಾಸಿಗಳಾದ ಸುಬ್ಬೇಗೌಡರ ಮಗ ಶ್ರೀನಿವಾಸಗೌಡ ಅವರ ತಮ್ಮ ಶಿವರಾಮ ಹಾಗೂ

ಶಿವರಾಮರವರ ಮಗ ಉಮೇಶ್. ಶ್ರೀನಿವಾಸಗೌಡರ ಹೆಂಡತಿ ಚಿಕ್ಕತಾಯಮ್ಮ ಹಾಗೂ ಶಿವರಾಮರವರ ಹೆಂಡತಿ ಪಾರ್ವತಿ ಇಷ್ಟು ಜನರು ನಮ್ಮ ಮನೆ ಬಳಿ ಬಂದರು ನಮ್ಮ ಮೇಲಿನ ಹಳೆಯ ದ್ವೇಷದಿಂದ ಶಿವರಾಮರವರ ಮಗ ಉಮೇಶ್ ಬಾಯಿಗೆ ಬಂದಂತೆ ಕೆರೆಯ ಮೀನಿನ ವಿಚಾರದಲ್ಲ ನಮ್ಮ ಮೇಲೆ ಕೋರ್ಟಿಗೆ ಕೇಸ್ ಹಾಕಿ ನನ್ನ ಹತ್ತಿರ ಬನು ಕಿತ್ತುಕೊಂಡೆ ವಲಯ ನನ್ನ ಮಗನೆ ಎಂದು ಜಾತಿ ನಿಂದನೆ ಮಾಡಿ ಶಿವರಾಮರವರ ಮಗ ಉಮೇಶ್ ಮರದ ಲೀಪಿಸ್ ಪಟ್ಟಿಯಿಂದ ನನ್ನ ತಂದೆ ಜವರಾಜುರವರ ಮೂಗು ಮತ್ತು ಕೈಕಾಲುಗಳಿಗೆ ಒಡೆದು ಗಾಯಮಾಡಿದ್ದರು. ಶ್ರೀನಿವಾಸಗೌಡನು ಸಹ ನಮ್ಮ ತಂದೆಗೆ ಕೈಯಿಂದ ಮೈಯಿಗೆ ಹೊಡೆದನು. ನಮ್ಮ ತಾಯಿಯಾದ ಪುಟ್ಟಮ್ಮರವರಿಗೆ ಶ್ರೀನಿವಾಸಗೌಡರ ಹೆಂಡತಿ ಚಿಕ್ಕತಾಯಮ್ಮ, ಶಿವರಾಮರವರ ಹೆಂಡತಿ ಪಾರ್ವತಿರವರು ನಮ್ಮ ತಾಯಿಯ ಜುಟ್ಟನ್ನು ಹಿಡಿದುಕೊಂಡು ಎಕೆದಾಡಿ ಮೈಮೇಲೆ ಕೈಗಳಿಂದ ಒಡೆದು ಕಾಲುನಿಂದ ಒದ್ದು ಗಾಯಗೊಳಿಸಿದ್ದರು. ಶಿವರಾಮರವರು ಇವರನ್ನು ಸುಮ್ಮನೆ ಬಿಡಬೇಡ ಪ್ರಾಣ ತೆಗೆಯಲಿ ಎಂದು ಕುಮ್ಮಕ್ಕು ಕೊಟ್ಟು ಪ್ರಾಣ ಬೆದಲಿಕೆ ಹಾಕಿದರು. ನಮ್ಮ ತಂದೆ ತಾಯಿಗೆ ಒಡೆದು ನೋವುಂಟು ಮಾಡಿರುವ ಮೇಲ್ಕಂಡವರ ಮೇಲೆ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಬೇಕಾಗಿ ಕೋರಿಕೆ.

ಪೆಟ್ಟೂರಿದ್ದ ನಮ್ಮ ತಂದೆ ತಾಯಿಯನ್ನು 108 ಅಂಬುಲೆನ್ಸ್‌ಗೆ ಮಾಡಿ ಕರೆಸಿಕೊಂಡು ಚಿಕಿತ್ಸೆ ಬಗ್ಗೆ ನಾಗಮಂಗಲದ ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆಗೆ ಕರೆದುಕೊಂಡು ಬಂದು ಚಿಕಿತ್ಸೆ ಕೊಡಿಸಿ ನಮ್ಮ ಅಣ್ಣ ವಿಜಯ್‌ಕುಮಾರ್ ನಾಗಮಂಗಲ ಹಾಸ್ಟೆಟ್‌ನಲ್ಲಿ ಇದ್ದರಿಂದ ಆಸ್ಪತ್ರೆಗೆ ಕರೆಸಿಕೊಂಡು ನಂತರ ರಾಣಿಗೆ ಬಂದು ದೂರು ನೀಡಿರುತ್ತೇನೆ."

14. On the basis of this complaint filed on 21.05.2013, 00.30 hours, Police have registered the case in Crime No.120/2013, against accused 1 to 5 for the commission of offence under Sections 143, 504, 324, 323, 506 read with

Section 149 of IPC and Section 3(i)(x) of SC/ST (POA Act) and submitted FIR to the Court as per Exhibit P9.

15. After investigation, Investigating Officer has submitted the charge sheet against the accused Nos.1, 2 and 3 for the commission of offences under Sections 504, 324, 326, 323, 114, 506 read with Section 34 of IPC and Section 3(1)(x) and 3(2)(v) of SC/ST (POA) Act.

16. The Investigating Officer has dropped the case against accused 3 and 4 for commission of alleged offences.

17. Complainant-PW1-Shruthi has deposed in her evidence that she knows the accused who belongs to gowda community and complainant belong to Adi-Karnataka community. They are residing in the same village since their birth. On 20.05.2013, between 20.30 and 21.00 hours when she was in front of their house along with her parents, her father was abusing her mother in respect of domestic matters, at that time, the accused persons came and abused her father as 'ಹೊಲಿಯು ನನ್ನ ಮರನೆ' taking name of their caste and humiliated him in the matter of filing case in respect of aquaculture and on that enmity, made galata and, at that time, accused-Umesh assaulted her father with a reaper patti on his hand, leg and

nose and hence there was bleeding on the nose and contusion on head and leg of her father. The accused Srinivasa Gowda instigated accused No.1 to kill her father and the accused have also threatened them with dire consequences. When she made hue and cry, Parvati and Chikkathayamma assaulted her mother and kicked her and she saw the accused with street light and on that night she telephoned to her brother who was in the hostel. Then ambulance came and took her father to the Hospital. As per the advice of Nagamangala Hospital Authorities, they shifted her father to the Mandya Hospital. She filed a complaint as per Exhibit P1 on 21.05.2013. Police have taken photographs of blood-stained shirt and towel of her father and she identified MO.1 to 3 reaper patti, shirt and towel of her father.

18. Injured PW2-Javaraju, has deposed in his evidence that he knows the accused who belongs to Okkaliga community and they are residing in the same village since their birth and they belong to Scheduled Caste community. It is further deposed that there is a tank of in the village and he was into aquaculture from 2007-2009 and about three times the accused made galata and he filed a complaint and thereby were having ill-will and in that regard, on 20.05.2013 between 08:30

and 09:00 p.m., when he was talking with his daughter and wife in front of his house the accused came and abused him as 'ಹೊಲಿಯ ನನ್ನ ಮರನೆ' and questioned with regard to the filing of case before this Court and accused-Umesh assaulted him on his hand, leg and nose with a reaper patti and accused Umesh assaulted him with MO.1 because of which his nose bone got fractured and Police have seized his shirt and towel and further it is deposed that accused have also threatened him with dire consequences.

19. PW3-Puttamma wife of PW2, has deposed in her evidence that she knows the accused who belongs to vokkaliga community and they are residing in the same village since their birth and about a year back when her husband and daughter was talking in front of their house at about 08:30 p.m. the accused came and abused her husband as 'ಹೊಲಿಯ ನನ್ನ ಮರನೆ' and assaulted her husband him and accused-Umesh assaulted on the hand, leg and nose with a reaper patti and because of that, there was a fracture to the bone of nose and he was bleeding and his towel and shirt were stained with blood and when she intervened, all the accused assaulted her and the accused Umesh and Srinivasa Gowda caught hold her tuft and dragged her and she fell unconscious and her daughter called her son

and Ambulance came and took them to Nagamangala Hospital and her husband has been sent to the Mandya Hospital. She was inpatient for about 10 days and her husband was in Mandya Hospital about a week. She saw the accused and the reaper patti in street light.

20. PW4-Puttamma wife of Marigowda, PW5-Jayamma, PW8-Chikkamma said to be the eye-witnesses, have not supported the case of the prosecution. Even in the cross-examination made by Public Prosecutor after treating them hostile witness, they have categorically denied as to the statement said to have been recorded by the Investigating Officer under Section 161 of Code of Criminal Procedure which is marked as Exhibits P4, P5 and P8.

21. P.W.6-Dr. Prashanth, Medical Officer, has deposed in his evidence as to examination of injured Puttamma and issuance of wound certificate at Exhibit P6.

22. PW7-Dr. Swami has deposed in his evidence as to examination of injured-Umesh and Srinivasa gowda, Javaraju and issuance of wound certificate at Exhibit P7.

23. PWs9 & 10, Srinivasa and Puttabuddi said to be the attesting witnesses to Exhibit P2-Mahajar, have not supported the case of the prosecution.

24. PW11-Chandrashekara has deposed as to the seizure Mahajar at Exhibit P3.

25. PWs12 & 13, the Police officials have deposed as to their respective investigations.

26. PW-2 has admitted in his evidence that there was an ongoing dispute between him and the accused regarding aquaculture. The offence under Section 3(2)(v) of the SC/ST (PoA) Act cannot be attracted in this case as the prosecution has failed to establish that offence was committed against PWs2 and 3 solely on the basis of their caste identity. It is pertinent to mention the decision of the Hon'ble Apex Court in PATAN JAMAL VALI v. STATE OF ANDHRA PRADESH reported in AIR 2021 SC 2190, wherein it is observed that the offence under Section 3(2)(v) must have been committed against the person on the ground that such person is a member of Scheduled Caste.

27. PW1 has deposed that Parvathi and Chikkathayamma hit PW3 with hands and legs. However, PW3

has stated that accused 1 and 2 along with Chikkamma caused her bodily injury. Therefore, the statements given by PWs1 and 3 are inconsistent.

28. PW6-Dr. Prashanth M, has admitted in his cross-examination that there were no external injuries on PW3 and that PW2 was in drunken state when he was brought to the hospital.

29. PW7-Dr. S.J. Swamy, has also stated in his cross-examination that PW2 had no external injuries. Had the injury been caused by a wooden reaper, ordinarily, a bruise or contusion would have been present. Absence of any such external injury, creates doubt in the version of the prosecution.

30. Doctors have issued the wound certificates as per Exhibits P6 and P7, bearing the names of PW-3 and PW-2, respectively. Exhibit P6 reveals that the injury was simple in nature. Whereas, as per Exhibit P7, the injury on nose was grievous in nature and three X-Rays of nose and arms (elbow) were taken. Nonetheless, the said of X-Ray reports have not been produced before the Court. Additionally, neither a Radiologist nor an Orthopaedic doctor, who have conducted the X-Rays, have been brought on record. For the aforesaid

reason, there is no evidence on behalf of the prosecution to prove that the injury caused to PW2 was grievous in nature within the ambit of Section 320 of Indian Penal Code. Therefore, it can be said that the prosecution has not produced the necessary evidence to attract the provisions of Sections 326 and Section 324 of Indian Penal Code.

31. In the case on hand, there is no cogent, corroborative or clinching evidence to support the prosecution case. The trial Court has overlooked the absence of material evidence required to prove the guilt of the accused and has wrongly convicted them. Hence, the judgment and order on sentence passed by the trial Court is erroneous and contrary to the principles of criminal jurisprudence. Accordingly appellants have made out ground to interfere with the impugned judgment of conviction and order on sentence. Hence, I answer point No.1 in the affirmative.

Regarding Point No.2:

For the aforestated reasons and discussion, I proceed to pass the following:

ORDER

- i) Appeal is allowed;

- ii) Judgment of conviction and order on sentence dated 17.10.2014 passed in Special Case No.50/2013 by I Additional District and Session Judge, Mandya, is set aside;
- iii) Accused/appellants are acquitted of offence under Sections 504, 323, 324, 326 read with 34 of IPC and Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (PoA) Act, 1989;
- iv) Bail bonds of the accused/appellants shall stand cancelled;
- v) Trial Court is directed to return the fine amount, if any, deposited by the appellants;
- vi) Registry to send the copy of this judgment along with trial court records to the concerned Court.

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

Inn