

By Secy Sd Adv
for Applicant

Pri. District & Sessions Judge
Chikkaballapura

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Receipt No. 676/2022 Dated 07/06/2022

DLF = 81/-

Presented on : 18-10-2019
Registered on : 22-10-2019
Decided on : 15-12-2021
Duration : 2 years, 1 months, 28 days

**IN THE COURT OF THE I-ADDL. DISTRICT &
SESSIONS JUDGE AT CHIKKABALLAPUR.**

Dated this the 15th day of December, 2021

: PRESENT :

Sri. S. NATARAJ, B.A.L., LL.B.,
I-Addl. District and Sessions Judge,
Chikkaballapur.

Spl.C.C No.42/2019

COMPLAINANT :

The State of Karnataka,
Represented by Dy.S.P.,
Chikkaballapur Sub Division,
Chikkaballapur

(Chikkaballapur Rural Police Station
Chikkaballapur)

(By the Learned Spl. Public Prosecutor)

INFORMANT/

COMPLAINANT :

Venkateshamurthy,
S/o Singalappa
aged about 48 years,
R/at Motlur village,
Chikkaballapur Taluk

(Provided with designated panel)



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lawyer Sri. Muniraju N.)

- V/S -

- ACCUSED** :
- A.1** Raghavendra
S/o late Chowdappa,
aged about 37 years,
- A.6** Venkatesh
S/o Nagaraj,
aged about 19 years,
- A.7** Srinivasa
S/o Keshanna,
aged about 48 years,

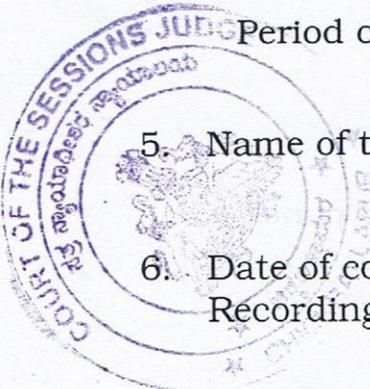
All are residing at:
Motluru village,
Kasaba Hobli,
Chikkaballapur Taluk

(Rep. by Sri. K.Mune Gowda,
Advocate)

TABULATION OF EVENTS

1. Date of Offence : 22.05.2019
2. Date of report of offence : 24.05.2019
3. Date of arrest of Accused : Not arrested
4. Date of release of Accused: _____

- | Period of custody | Year/s | Month/s | Day/s |
|-------------------|--------|---------|-------|
| | 00 | 00 | 00 |
5. Name of the complainant: Venkateshamurthy
S/o Singalappa,
6. Date of commencement of
Recording evidence : 13.09.2021



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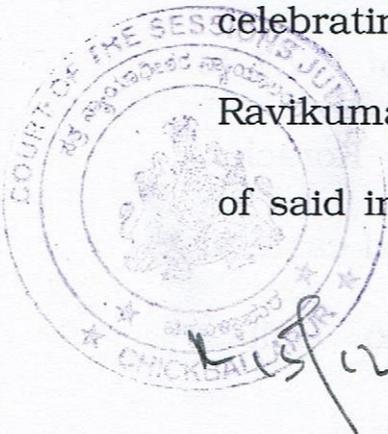
7. Date of closing evidence : 29.10.2021
8. Offence complained of : Under Sec. 323, 324, 504, 506 r/w Sec.34 of IPC, Sec.3(1)(r)(s) of SC/ST (POA) Amendment Act, 2015
9. Opinion of the Judge : Accused No.1, 6, 7 not found guilty

J U D G M E N T

PW.14-M. Prabhushankar, the then Deputy Superintendent of Police, Chikkaballapur Sub Division, Chikkaballapur submitted a charge sheet against the accused No.1, 6, 7 for the offences punishable under Sec.323, 324, 504, 506 r/w Sec.34 of IPC, Sec.3(1)(r)(s), of SC/ST (POA) Amendment Act, 2015 in respect of Chikkaballapur Rural police station Cr.No.95/2019.

2. The prosecution case in brief is as under:

PW.2 Anilkumar and his friends resident of Motlur village of Chikkaballapur taluk on 31.12.2018 while celebrating new year in Govardhan layout, one Ravikumar and his friends quarreled with him. In respect of said incident, case was registered against Ravikumar



in Chikkaballapur rural police station. In respect of the said case, accused No.1 who is relative of Ravikumar and complainant are having animosity. With that background, on 22.05.2019 at 2.30 pm, at Motlur village PW.1 Venkateshamurthy came near his house from the land, at that time accused No.1, 6, 7 in furtherance of common intention accused No.1 abused the PW.1 in filthy words by touching the caste name and threatened to kill him and his son, with a stone assaulted on left leg knee, hand and other parts of body caused blood injuries, PW.2-Anil kumar, PW.3-Shanthamma came to rescue the complainant, at that time accused No.1-Raghavendar with a stone assaulted on head, left hand and other parts of PW.2 caused blood injuries, accused No.6, 7 with bricks and hands assaulted PW.1 and PW.2, PW.3-Shanthamma came and pacified the quarrel and taken the injured to the hospital, knowing that PW.1 to PW.3 are members of scheduled caste of Koracha, whereas, accused No.1, 6, 7 are non-scheduled caste or non-scheduled tribe persons, belonging to Gollas,

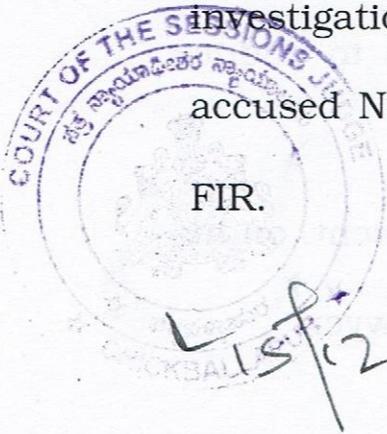
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thereby committed the offences punishable under Sec.323, 324, 504, 506 r/w Sec.34 of IPC, Sec.3(1)(r)(s) of SC/ST (POA) Amendment Act, 2015.

3. PW.1 Venkateshmurthy filed a complaint on 24.05.2019 at 12.00 pm, before the Chikkaballapur Rural police station, CW.17-Chethan Kumar, PSI, registered the case submitted a FIR to the Court. Thereafter, PW.14-M.Prabhushankar, Dy.S.P., took up the investigation, visited the spot on 24.05.2019 drawn mahazar as per Ex.P.4 in presence of witnesses, seized material objects bricks and two pieces of stones as MO.1 and MO.2, recorded the statements of witnesses, collected wound certificate of PW.1 and PW.2 at Ex.P.9, P.10, prepared rough sketch at Ex.P.13, caste certificate at Ex.P.1 and P.2 were obtained, arrested the accused No.6 and produced before the Court, after completion of investigation submitted a charge sheet against the accused No.1, 6, 7, deleted other accused named in the

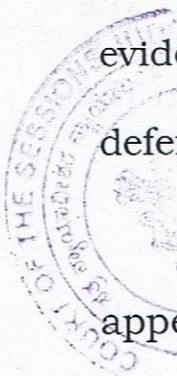
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4. After taking the cognizance of the offences, the accused No.1, 6, 7 presence secured, they are on bail, represented through counsel. Copy of the charge sheet furnished under Sec.207 of Cr.P.C., to them. Charges for the offences punishable under Sec.323, 324, 504, 506 r/w Sec.34 of IPC, Sec.3(1)(r)(s) of SC/ST (POA) amendment Act, 2015 was framed, read over and explained to them, they pleaded not guilty and claimed to be tried.

5. The prosecution to establish its case examined PW.1 to PW.14 witnesses, Ex.P1 to Ex.P.14 documents, MO.1 and MO.2 [material objects] in support of its case and closed prosecution side evidence. The accused statement as required under section 313 of Cr.P.C., has been recorded, they denied the incriminating material evidence appeared against them, not chosen to adduce defence evidence or produced documents.

6. Notice to the informant was issued absent, on his appearance provided with designated panel lawyer.



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7. Heard the arguments of learned Spl. public prosecutor, informant counsel as well as accused counsel.

8. Now, the points that arise for my consideration are:-

Point No.1 : Whether the prosecution proves beyond all reasonable doubt that on 22.05.2019 at 2.30 pm, at Motlur village PW.1 came near his house from the land house, at that time accused No.1, 6, 7 in furtherance of common intention knowing that he belonging to scheduled caste of Koracha, intentionally intimidated to humiliate him abused him in filthy words by touching the caste name as ನಿನ್ನಮ್ಮನ್ ಕೇಯಾ ನಿನ್ನಮ್ಮನ್ ಕೊರಚ ಜಾತಿನೇ ಕೇಯಾ, thereby committed the offence punishable under Sec.504 r/w Sec.34 of IPC, Sec.3(1)(r)(s) of SC/ST (POA) Amendment Act, 2015?

Point No.2: Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place the accused in furtherance of common intention, accused No.1 with a stone assaulted on left leg knee, hand and other parts of body of PW.1, and also assaulted with a stone assaulted on head, left hand and other parts of PW.2 caused blood injuries, accused No.6, 7 with bricks assaulted PW.1 and PW.2, thereby



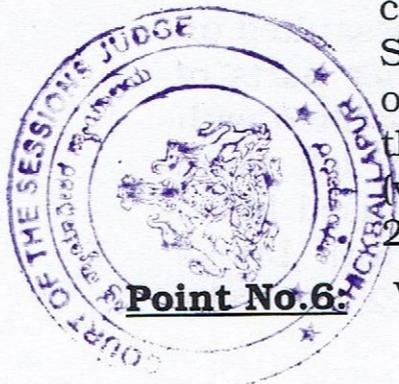
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committed the offence punishable under Sec.324 r/w Sec.34 of IPC?

Point No.3: Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place the accused in furtherance of common intention, accused No.6 and 7 with hands assaulted on Pw.1 and PW.2, thereby committed the offence punishable under Sec.323 r/w Sec.34 of IPC?

Point No.4: Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place the accused in furtherance of common intention, accused No.1 threatened to PW.1 and his son PW.2 to kill them, thereby committed the offence punishable under Sec.506 r/w Sec.34 of IPC?

Point No.5: Whether the prosecution proves beyond all reasonable doubt that on the above said date, time and place the accused in furtherance of common intention, knowing that PW.1 and PW.2 members of scheduled caste of Koracha, assaulted with hands, bricks, stones and criminally intimidated to kill them, committed the IPC offence under Sec.323, 324, 506 under the schedule of SC/ST (POA) Act, thereby committed the offence punishable under Sec.3(2) (va) of SC/ST (POA) Amendment Act, 2015?



Point No.6: What order?

9. My findings to the above points are as below-
Point No.1 to 5 : In the Negative,

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Point No.6 : As per final order for the following:

REASONS

10. **Point No.1 to 5 :-** All these points are interconnected with each other, same are required for common discussion.

11. It is an admitted fact that PW.1 and PW.2 are members of scheduled caste of Koracha, whereas, accused No.1, 6 and 7 are non-scheduled caste or non-scheduled tribe persons belonging to Gollas. With the consent of learned counsel for the accused, the caste certificates are marked at Ex.P.1 and P.2, in view of admitted fact, no need to discuss this point.

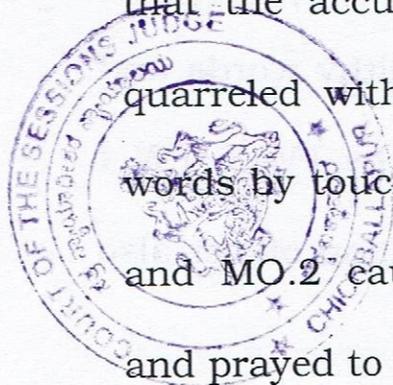
12. The Special Public Prosecutor and the informant counsel argued that PW.1 and PW.2 are the injured, in their evidence they deposed regarding incident and assaulted by the accused persons with MO.1 and MO.2,

abused by touching the caste name in filthy words and threatened. Their evidence is supported by PW.3, PW.4 and medical evidence of PW.13. Investigation officer also



deposed about the incident. PW.10 sister and PW.12 Deepa, daughter of PW.1 also corroborated their evidence about the incident and drawing of mahazar. In the cross-examination of prosecution witnesses nothing is elicited, and prayed to convict the accused.

13. The learned counsel for the accused argued that there is delay of two days in filing the complaint not explained to the satisfaction of the Court. Knife and club deposed by prosecution witness are not seized. The place of incident and drawing of mahazar is different. PW.1 to PW.3, PW.12 are family members, their evidence is inconsistent and contradictory to that of medical evidence. PW.5 to PW.8, PW.11 turned hostile. PW.10 partly supported. There is no cogent evidence on record that the accused in furtherance of common intention quarreled with PW.1 and PW.1, abused them in filthy words by touching the caste name, assaulted with MO.1 and MO.2, caused injuries and criminally intimidated, and prayed to acquit the accused.



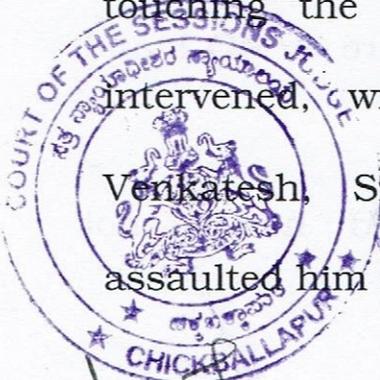
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14. Having considered the submissions of both sides, I have gone through the material on record. The prosecution witnesses are;

PW.1 Venkateshmurthy, complainant/injured, speaks that on 22.05.2019 at 2.30 pm, in front of his house on road the accused came there, accused No.1 abused him by touching the caste name in filthy words. One Jagadish with a knife assaulted on head of PW.2, accused No.1 with stone assaulted on head of PW.2, Lakshmiddevamma with stone assaulted on head of PW.2. Srinivasa, Manjunatha, Nethravathi, Seenappa assaulted CW.3 with stones and bricks. He filed a complaint and identified the MO.1 and MO.2.

15. PW.2 Anil Kumar, injured and son of PW.1, speaks that on 22.05.2019 at 2.30 pm, in front of his house accused No.1 assaulted his father, abused by touching the caste name in filthy words, when he intervened, with a stone assaulted him. Jagadish, Venkatesh, Srinivasa, Nethravathi and Gopi's wife assaulted him and his parents with stones.

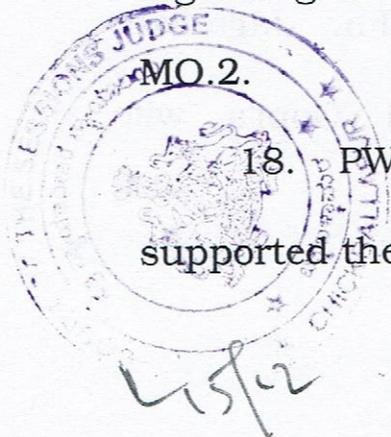


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16. PW.3 Shanthamma wife of PW.1 and mother of PW.2, she said to be eyewitness to the incident, she speaks that on 22.05.2019 at 2.30 pm, the accused No.1 abused her husband in filthy words by touching the caste name, then Venkatesh, Lakshmiddevamma, Nethravahi and her son assaulted with stones and bricks, then ladies with stones and bricks assaulted.

17. PW.4 Muniraju, he speaks that on 22.05.2019 at 2.30 pm, while he was in front of his house, Jagadish and Manjunatha came there abused PW.1 in filthy words by touching the caste name. Nethravathi, Rathnamma, Dyavamma with stones assaulted PW.2 and PW.3, Raghavendra and Jagadish with knives assaulted PW.2. He pacified the quarrel. Injured were taken to the hospital. He identified the MO.1 and MO.2 and speaks regarding drawing of mahazar and seizure of MO.1 and

18. PW.5 Manjunath, he turned hostile not supported the prosecution.



19. PW.6 Krishnappa, PW.7 Gangadharappa are turned hostile. PW.7 in his cross-examination by prosecution admits the prosecution case.

20. PW.8 Anand Babu, eyewitness to the incident, turned hostile.

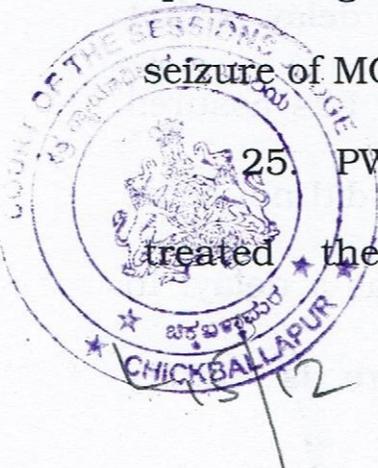
21. PW.9 Muniyamma, sister of PW.1, she has partly supported the prosecution stating that the accused abused the PW.1, assaulted with stones on forehead of PW.1, she pacified the quarrel.

22. PW.10 Sarojamma, sister of PW.1 partly supported the prosecution stating that the accused abused the PW.1 and assaulted with stones on head and hand.

23. PW.11-Narasimhamurthy, eyewitness to the incident, turned hostile.

24. PW.12 Deepa, daughter of PW.1 and PW.3, she speaks regarding drawing of mahazar at Ex.P.1 and seizure of MO.1 and MO.2.

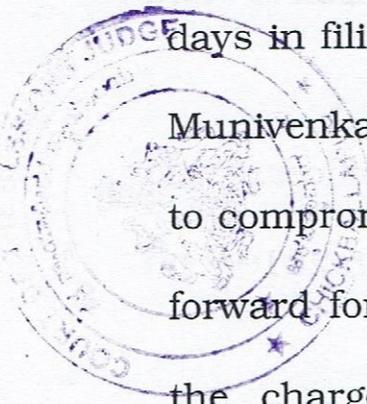
25. PW.13 Dr. Prathima, medical officer, who treated the PW.1 and PW.2 on 22.05.2019 on



examination of PW.1 no external injuries and unable to move left lower limb, X-ray of left knee joint and hip joint normal, which are simple in nature, issued a wound certificate at Ex.P.9. Whereas, PW.2-Anil has sustained cut lacerated wound measuring 3x0.05 cm in the lower occipital region; cut lacerated wound measuring 1x0.5 cm upper occipital region. Advised for CT scan, but not done. The injuries are simple in nature, issued a wound certificate at Ex.P.10.

26. PW.14 M. Prabhushankar, Dy.S.P., who conducted the investigation and submitted a charge sheet.

27. After going through the evidence on record. Ex.P.3 is the complaint filed on 24.05.2019, the incident was on 22.05.2019 at 2.30 pm, there is a delay of two days in filing the complaint. The reason for delay is that Munivenkatappa, Nallakadirenahalli village has assured to compromise the matter, but the accused did not come forward for compromise, therefore there was a delay. In the charge sheet stated that since there is enmity



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between PW.2 and accused No.1 relatives in respect of new year celebration at Motlur village, case was registered against Ravikumar. When such being the fact proposal for compromise from the accused is not probable. In the evidence of PW.1, the reason for delay as stated from the complaint reasons. The elders Munivenkatappa and Raghu are not examined before the Court to show that they advised the complainant not to file complaint and they would compromise the matter. In absence of their evidence the reason stated in the complaint is not satisfactory. In view of previous animosity between accused and PW.2 delay of two days is suspicious and doubtful regarding the incident.

28. In the complaint at Ex.P.3 was filed initially against accused No.1, 6 and 7, Jagadish, Manjunatha, Lakshmidamma, Nethravathi, Venkatesh. So, these persons are not accused before the Court. In the charge sheet they deleted, not sent up for trial. During investigation there is no case against the above said persons. As such they have been dropped. As per the

