

KABC030115992023



**IN THE COURT OF XXIV ADDL. CHIEF
METROPOLITAN MAGISTRATE, BENGALURU**

DATED THIS THE 16th DAY OF NOVEMBER 2023

C.C. No.6992/23

Present: **SRI. B.C.CHANDRASHEKAR**
B.A., LL.B.,
XXIV ADDL. C.M.M., BENGALURU.

COMPLAINANT : The State of Karnataka through
Chamarajpet Police Station
Rep.by Sr.APP

V/s.

Accused

1. Rajesh @ Chinnu, s/o.Madesh,
21 yrs, No.35, 6th cross, Azadnagar,
Chamarajpet, Bengaluru.

2. Bharath Rao @ Bharath,
s/o.Srinivas, 20 yrs, No.44/9, 6th
cross, Azadnagar, Chamarajpet,
Bengaluru.

3. Mohan, s/o.Shivaraja, 22 yrs,
No.37, 6th cross, 2nd main,
Azadnagar, Chamarajpet,

Bengaluru.

Rep.by Sri.MGS, Advocate

DATE OF COMMENCEMENT OF OFFENCE	: 03/01/23
DATE OF ARREST OF THE ACCUSED	: Accused No.1 to 3 are on bail.
OFFENCES ALLEGED	: U/s.341, 323, 324, 504 r/w.34 of IPC.
DATE OF COMMENCEMENT OF EVIDENCE	: 09/11/2023
DATE OF CLOSING OF EVIDENCE	: 09/11/2023
OPINION OF THE JUDGE	: Found not guilty

(B.C.CHANDRASHEKAR)
XXIV A.C.M.M., BENGALURU.

-: J U D G M E N T :-

The PSI of Chamarajpet Police station has filed chargesheet against accused persons for the offences punishable u/s. 341, 323, 324, 504 r/w.34 of IPC.

2. The brief facts of the case of the prosecution are that on 3/1/23 at 8.00 pm., near 6th cross, Azadnagar, the accused persons have picked up quarrel with CW.1, abused him in filthy language and also threatened CW-1 to do away

her life with dire consequences. Further on the same day at about 9.30 pm., near house No.152/4, 1st floor, 1st cross, 1st main, Anatharamaiah compound, the accused persons abused the CW 1 in filthy wordings, accused no.1 assaulted the CW 1 with knife on his left hand, accused no.2 and 3 assaulted the CW 1 with hands on all over his body and put life threat and thereby committed the offences u/s. 341, 323, 324, 504 r/w.34 of IPC.

3. On the basis of the complaint of the CW 1, this crime has been registered by Chamarajpet Police Station. After investigation, Investigating officer has submitted the chargesheet against the accused No.1 to 3 for the offence u/s.341, 323, 324, 504 r/w.34 of IPC. The cognizance for the said offences are taken. Thereafter on issuance of summons, the accused No.1 to 3 have appeared before the court through their counsel and filed the bail application. Accordingly, they have released on bail.

4. The copies of the prosecution papers have furnished to the accused persons as contemplated u/s.207 of Cr.P.C., After being heard the arguments before charge, as there were no grounds to discharge them, charge for the offences u/s.341, 323, 324, 504 r/w.34 of IPC have been framed & read over, explained to the accused No.1 to 3 in the language

best known to them. The accused No.1 to 3 have not pleaded guilty and claims to be tried. Hence, the case taken up for trial.

5. In order to prove the guilt of the accused persons, the prosecution has examined the complainant and injured as PW1 out of 12 witnesses as cited in the chargesheet. One document has been marked as Ex.P.1. Since the PW 1 being the injured has turned hostile and there is no incriminating evidence against the accused persons, examination of accused persons u/s.313 of Cr.P.C., has been dispensed with.

6. Heard the arguments of learned APP and counsel for accused persons. Perused, On the basis of the above, the following points have arisen for my consideration : -

1) Whether prosecution proves beyond reasonable doubt that on 3/1/23 at 8.00 pm., near 6th cross, Azadnagar, the accused persons have picked up quarrel with CW.1. Further on the same day at about 9.30 pm., near house No.152/4, 1st floor, 1st cross, 1st main, Anatharamaiah compound, the accused persons assaulted the CW 1 with knife on his left hand and caused bleeding injuries and thereby committed the offences u/s.324 r/w.34 of IPC ?

2) Whether prosecution proves beyond

reasonable doubt that on the aforesaid date, time and place, accused persons wrongful restrained the CW 1 from moving further and there by committed an offence punishable U/s 341 r/w 34 of IPC ?

3) Whether prosecution proves beyond reasonable doubt that on the aforesaid date, time and place, accused persons assaulted CW 1 with hands and caused simple injures and there by committed an offence punishable U/s 323 r/w 34 of IPC ?

4) Whether prosecution proves beyond reasonable doubt that on the aforesaid date, time and place, accused persons abused CW.1 in filthy language and thereby gave provocation to CW 1 knowing it to be likely that such provocation will break the public peace of CW 1 and thereby have committed an offence punishable U/s 504 r/w.34 IPC?

5) What order?

7. My answer to the above points is as under;

Point No.1 to 4- In the Negative

Point No.5-As per final order for the following :

REASONS

8. Point No.1 to 4 : Since all these points are interlinked

with each other, I have taken them together for common discussion in order to avoid the repetition. According to the prosecution, accused persons have committed an offence u/s.341, 323, 324, 504 r/w.34 of IPC. In order to prove the guilt of the accused persons, the prosecution has examined the complainant as PW.1, who is the injured. The PW 1 has deposed that he does not know the accused persons. He further deposed that accused persons never assaulted or abused him. About 10 months ago, when he went to Police Station, they have took the signature on one document which is the complaint and it is marked as Ex.P.1. He has deposed that he does not know what has written in Ex.P.1. Thus he has totally turned hostile to the case of the prosecution.

9. At request of learned senior APP this witness has been treated as hostile witness and permission was accorded to cross examine him. In the cross examination the learned Sr.APP suggested the case of the prosecution and same has been denied by the witness. In spite of the cross examination by the learned Sr.APP nothing has been elicited from his mouth. Since the PW 1 being the material injured and victim of the incident himself has turned hostile and not supports the case of the prosecution, naturally strong doubt would accrued in the mind of the court. In a criminal justice system, if a tiny doubt arises in the mind of the court, benefit

of doubt shall be extended to the accused persons. In this case, not only tiny doubt but the strong doubt arise in the mind of the court, because the victim himself has not supported the case of the prosecution. Hence, the prosecution has utterly failed to prove the guilt of the accused persons beyond all reasonable doubt. Hence, in my opinion it is a fit case to extend benefit of doubt to the accused persons. **Accordingly point under reference answered in the Negative.**

10. **POINT NO.2 :**

For the aforesaid reason and discussion, I proceed to pass the following:

ORDER

Acting under section 248(1) of Cr.P.C. Accused No.1 to 3 are hereby acquitted for the offences punishable U/s. 341, 323, 324, 504 r/w.34 of IPC.

The bail bond executed by the accused No.1 to 3 are stands cancelled. However, Accused No.1 to 3 shall execute personal bond of Rs.50,000/- each by undertaking to appear before the appellate Court, if any appeal is filed.

It is not a fit case to award victim

compensation as provided U/s.357(1) of Cr.P.C.,

Property seized in PF.No.4/23 is worthless, ordered to be destroyed after the appeal period is over.

(Dictated to the stenographer, script transcribed by her and then corrected directly on computer and then pronounced by me in open court on this the 16th day of November 2023).

(B.C.Chandrashekar)
XXIV A.C.M.M., BENGALURU.

ANNEXURE

Witnesses examined for the Prosecution:

PW-1 : Suhas

Documents marked for the Prosecution:

Ex.P-1 : Complaint

Ex.P1(a) : Signature

Witnesses examined for the accused: NIL

Documents marked for the accused: NIL

(B.C.Chandrashekar)
XXIV A.C.M.M., BENGALURU.