

**IN THE COURT OF THE ADDITIONAL ASSISTANT SESSIONS JUDGE,
ELURU**

Present: **Sri.K.K.V.BULI KRISHNA**,
Additional Assistant Sessions Judge.
Eluru

Friday, this the 17th day of January, 2025

SESSIONS CASE NO.133 OF 2023

Name of the complainant	:	State: Represented by Inspector of Police, Bhimadole Circle.
Name of the Accused and particulars	:	1. Vallepu Thirupatayya S/o Chinna , 27 years, C/Vaddera, 2. Vallepu Yesu S/o Venkateswarlu, 22 years, 3. Vallepu Venkanna, S/o Chinna, 32 years, J1. XXXXXXXXXX(Juvenile in conflict with Law) 5. Vemula Raju @ Gali Raju, S/o Guruvulu, 40 years, 6. Vemula Mariya Babu, S/o Yellayya, 21 years, 7. Gunje Venkatesh, S/o Bhushanam, 22 years, Vaddera, Seethampeta Village, Denduluru Mandal J2. XXXXXXXXXXXX(Juvenile in conflict with Law) 9. Gunje Veeranna, S/o Gopalam, 22 years, Vaddera, Seethampeta Village, Denduluru Mandal 10. Gunje Yellayya, S/o Venkanna, 33 years, 11. Gunje Pichiyya @ Dachepalli Yedukondalu, S/o Venkanna, 42 years, 12. Gunje Peddiraju, S/o Gopalam, 38 years, 13. Vemula Kranthi Prasad, S/o Godavari, 23 years, Vaddera, near Chiranjeevi Bus Stand,

	Eluru 14. Vemula Chinna S/o Venkateswara Rao, 25 years, Vaddera, near Chiranjeevi Bus Stand, Eluru 15. Gunja Hanumanthu @ Chinni, S/o simhadri, 20 years, C/Vaddera, Rangarao colony, Eluru 16. Kommiri Raghava, s/o Sattiraju, 21 years, vaddera, Rangarao Colony, Eluru 17. Battula Yesudasu, S/o Yedukondalu, 21 years, Vaddera, near Chiranjeevi Bus Stand, Eluru 18. Chandragiri Prasanth Raju @ Prasanth S/o Thirupathi Rao, 19 years, Vaddera, near Chiranjeevi Bus Stand, Eluru 19. Gunje Yakob Raju @ Ramakrishna Yakob Raju, S/o Venkanna, 25 years, Vaddera , N/o Savaram Village, Amalapuram, East Godavari District, Now at Eluru 20. Karri Tharun Kumar, S/o Sattibabu, 20 years, T.Kapu, Ponangi road, Eluru 21. Kommiri Jayaraju S/o Rangaraju, 22 years, Vaddera, Vadderagudem, Near Chiranjeevi Bus Stand, Eluru A1 to A.3, A5 & A6, A10, A11, A12 are R/o SC Colony, Gundugolanu Village of Bhimadole Mandal
Charge	: Under Sections 147, 148, 332, 333, 307 r/w 34 of Indian Penal Code
Plea of the accused	: Pleaded not guilty
Finding of the judge	: Found not guilty
Sentence or Order	: In the result, the Accused A1 to A3, A5 to A7, and A.9 to A21 is found not guilty for the charge punishable under Sections 147, 148, 332, 333 and 307 read with 34 of Indian Penal Code and they are acquitted under Section 235(1) of Criminal Procedure Code. The surety bonds of

		surety persons and bail bonds of accused, if any, shall stand cancelled after expiry of appeal time as contemplated under Section 437-A Cr.P.C. Further the MO.1 - 9 survey sticks and unmarked property if any shall be destroyed after expiry of appeal time, if not required in the connected case.
Counsel for the prosecution	:	Additional Public Prosecutor, Eluru, West Godavari.
Counsel for defence	:	Sri K.N.Ch.Suresh Babu, Advocate for A1 to A.3 and A5 to A7 , A9 to A12 Sri K.Subbarao(Bala), Advocate for A13 to A16, A20 and A21 Sri N.V.Satyanarayana, Advocate for Accused No.18 and 19 Sri K.N.Ch.Suresh and of Sri G.Vijayaraju, advocates for A.9 and A.10 Sri G.V.Anand Kumar, Advcoate for A17

This case is coming on 09.01.2025 for final hearing before me and, after hearing both sides and after perusing the material on record, having stood over for consideration till this day, the Court delivered the following:-

J U D G M E N T

The Circle Inspector of Police, Bhimadole Circle, filed charge sheet against the sole Accused for the offence under Sections 147, 148, 332, 333, 307 r/w 149 of Indian Penal Code (for short 'I.P.C') in Crime No.31/2022 of Bhimadole Police Station.

2. The Case of the prosecution, in brief, as follows:

a) The LWI/complainant/V.S.V.Bhadra rao has been working as Sub Inspector of Police, Bhimadole Police station from 17.06.2022. In obedience instructions of the officers, to prevent prohibited gambling's, Gundata, cock fights and other gambling in view of Sankranthi festival, on 15.01.2022, the

complainant along with his staff and special party police conducted patrolling in the limits of Bhimadole police station. It is further averred that on receipt of credible information on 16.01.2022 at about 22.15 hrs. the complainant along with his staff PC's-2066. P.Chiranjeevi. PC-2486. K.Murali, PC-2505. K. Naganjaneyulu. and District Special Party PC's- 1031, G.Vijay Kumar, PC-2356, TS. Srinivasa rao. PC- 2293, Ch. Srinu (LW2 to LW7) are together went to SC colony, Gundugolanu Village, by that time it is observed that some of the mass attending Kotha Banthi by betting the money, on that the complainant along with his staff tried to conduct raid, then all of the accused pounced upon the complainant and his staff who are in on duty and assaulted over them by pronouncing that ***Maa pai police raid chethara?, Sankranthi samayam lo raid chethara?***, on that LW1/complainant brought his staff and came to Pothunuru Gundugolanu tar topped road.

b) It is further averred that thereafter all the accused came there with Survey sticks by handing with an intention to kill them and assaulted with deadly weapons and then they put their hands in order to save their lives and then the accused pronounced that ***"Champandi raa eeaa na kodukulani"*** and tried to kill them, as a result of which, the complainant received severe head Injury over his head back side and one of the upper teeth was broken and received contusion injuries over the body and LW2/PC-2486 K Murali received contusion injuries over his both cheeks, LW3/PC-2356 received swelling injury over his left hand, further they pronouncing that the police has to get the fear if they will conduct raid.

c) It is further averred that the complainant and his staff and LWs 8 & 9 identified all the accused i.e. Vallepu Thirupathayya. Vallepu Yesu, Vallepu Venkanna. J1-Juvenile in Conflict with law, Vemula raju. Vemula mariya babu. Gunje Venkatesh,J2-Juvenile in Conflict with law, Gunje Veeranna, Gunje

Yellayya. Gunje Pichiyya Yedu kondalu. Gunje Peddiraju. of SC colony. Gundugolaun and Vemula Kranthi, Vemula Chinna. Gunje Hanumanthu, Kommari Raghava. Bathula Vasudasu. Chandragiri Prasanth, Gunje Rama Krishn Raghavulu. Chandrayya, karra Tharun, Kommari Jaya Raju of Eluru. Hence the complainant along with his staff came to police station and lodged a report against the accused.

d) Basing on the report given by LW-1, a case in Cr.No.31/2022 under Section 147, 148, 332, 333, 307 r/w 149 Indian Penal Code was registered by LW.16/U.Venkateswara Rao, ASI and investigated into. During the course of investigation, LW.17/M.Subbarao- Inspector of Police obtained CD file from LW.16 and examined the LWs.1 to 7 and recorded their 161 (3) Cr.P.C. statements. Further, he sent the injured/LWs.1 to 3 to the Government hospital, Bhimadole for getting treatment and that he visited the scene of offence -I situated at Gundugolanau – Pothunuru, and got drafted the scene observation report and seized Survey sticks from the scene of offence and from there Lw.17 visited the scene of offence -II situated at SC colony, Gundugolanu Village, Bhimadole and got drafted the scene observation report -II and seized 4 Sarivi sticks having 5 feet length and 10 inches circumference from the scene of offence-II. On 17.01.2022, LW.17 arrested the accused A1 to A.3, A5 to A7, A.11, A.13 to A.17 and A.19 to A.21 and sent them for judicial remand and also arrested the Juvenile Conflict with Law No.1 on 18.01.2022 and on 20.01.2022 Juvenile Conflict with Law No.2 surrendered before the II Additional Judicial Magistrate of I Class Court, Eluru and also surrendered the Accused A.9 and A.10 before the Judicial Magistrate of I Class, Bhimadole on 22.1.2022 and sent them for judicial custody.

e) It is further averred that on 12.02.2022, LW.17/M.Subbarao- Inspector of Police obtained wound certificate of injured/LW.2/K.Murali PC 2486 and

LW.3/B.Srinivasa Rao PC 2356 from the Medical Officer/LW.13/Dr.M.Mary, Government hospital, Eluru, in which she opined that the injuries are simple in nature. On 09.03.2022 LW.17 obtained the wound certificate of injured from the medical officer, Government hospital, Eluru and examined them, in which he opined that the injuries are simple in nature. Thereafter, on 08.04.2022 LW.17 arrested the A18 and sent for judicial custody. Finally, the Accused A12 surrendered before the Court and obtained Anticipatory bail vide Crl.M.P. No.143/2022. After completion of investigation, LW.17/M.Subbarao Rao-Inspector of Police filed charge sheet against the accused.

3. The learned Junior Civil Judge- cum-Judicial Magistrate of First Class, Bhimadole, took cognizance for the offence punishable under Sections 147, 148, 332, 333, 307 r/w 34 IPC against the accused and numbered the case as PRC.No.4 of 2022

4. After issuance of the summons to Accused A1 to A3, A5 to A7, and A.9 to A21 and after their appearance, copies of the documents were furnished to them as required under Section 207 Cr.P.C., and since the offence under Section 307 of I.P.C., is exclusively triable by the Sessions Court, the said case is committed to the Honorable District and Sessions Court, West Godavari District at Eluru and the same was made over to this Court for disposal of the same according to law.

5. After receipt of the case, this Court issued summons to the A1 to A3, A5 to A7, and A.9 to A21 and on their appearance before this Court, the A1 to A3, A5 to A7, and A.9 to A.21 appeared before this Court by engaging counsel and upon perusing the material on record and after having heard both sides, charges for the offence under Section 147, 148, 332, 333, 307 r/w 34 are framed against A1 to A3, A5 to A7, and A.9 to A21. The contents of said

charge are read over and explained to them in Telugu, for which they pleaded not guilty and claimed to be tried.

6. During the course of trial, the prosecution, to prove its case against the accused, examined PWs.1 to 11 and got marked Exs.P1 to P9. On behalf of defence, no oral or documentary evidence is adduced.

7. The learned Additional Public Prosecutor has given up the evidences of LW.6/Gorla Vijay Kumar, LW.7/Chebina Srinu, LW.10/Kalidindi Venkanna, LW.11/Taidala Aruna Kumari, LW.12/Modabala Vamsi, LW.14/Varrigonda Venkateswara Rao, as their evidence is not required by the prosecution.

8. After completion of the prosecution evidence, this Court examined the accused under section 313 Cr.P.C., as to the incriminating material appearing against him in the evidence of prosecution witnesses, for which, he denied the incriminating material and pleaded false implication and reported no defence evidence on his behalf.

9 Heard the arguments on either side learned counsel.

10. ***Now, the point that arises for consideration is:***

Whether the prosecution is able to prove the guilt of the A1 to A3, A5 to A7, and A.9 to A21 for the offence punishable under Sections 147, 148, 332, 333, 307 r/w 34 IPC beyond all reasonable doubt?

11. POINT:-

The case of the prosecution is that on 15.01.2022 the defacto complainant along with his staff and special party police conducted patrolling in the limits of Bhimadole Police Station and on the receipt of credible information on 16.01.2022 at about 10.15 hours the complainant along with

his staff went to SC Colony , Gundugolanu Village and observed some of the persons who gathered there and playing Kothabanthi game and defacto complainant along with his staff tried to conduct raid and the accused pounced upon them and uttered them and also attacked them and also beat them, as a result the defacto complainant received severe head injury over his head back side and one of the upper teeth was broken and received contusion injuries over the body and other police constables also received injuries. It is further averred in the charge sheet that the defacto complainant and his staff identified the persons as accused and thereafter, the defacto complainant along with his staff came to police station and lodged a report against the accused. The case was registered under Sections 147, 148, 332, 333, 307 read with 149 of IPC and investigated into. During the course of investigation, the investigation officer recorded the statements of witnesses and also observed the scene and seized Mos sticks from the scene of offence and also got drafted scene observation report. On 17.01.2022 LW.17 arrested the accused No.1 to 3 , 5 to 7, 11, 13 to 17 and 19 to 21 and A9 and A10 surrendered before the judicial magistrate of I class on 20.01.2022 and A12 got anticipatory bail. The investigation officer completed the investigation and filed charge sheet against the accused.

12. To prove the case of prosecution, prosecution examined Pws.1 to 11 and got marked Ex.P1 to P9, apart from MO.1.

13. PW.1 deposed that he has been working as Sub Inspector of Police, Mudanepalli and previously he worked as Sub Inspector of Police, Bhimadole . He further deposed that on 15.01.2022 they conducted rounds to prevent the cock fights and gambling on the even of Sankranthi festival and on the same day, in the night hours at 10.15 PM they visited the SC Colony, Gundugolanu along with other staff and they found more than 50 persons at

SC colony while playing Kothabanthi game by betting money and he tried to conduct raid with the assistance of their staff and all the persons attacked them and beat them and then he took his staff and come back and reached the main road Gundugolanu – Pothunuru main road and then all the persons followed them and beat them with sticks by uttering and abused them by stating that “*Policelu mana meeda raid cheyadam enti Champandi ra na kodukulani*” and tried to kill them . PW.1 identified the persons who stood in the court hall and the prosecution got marked MO.1 through PW.1. PW.1 further deposed that he sustained injury on left side of his head and lost one teeth and also sustained injuries all over the body . PW.1 further deposed that the other staff by name Murali and Srinivasa Rao also sustained injuries in the incident. PW.1 further deposed that accused escaped from the scene of offence on observing the public. PW./1 further deposed that they ascertain the names of accused from the public and also LW.9/Suneel Kumar. PW.1 deposed that after the incident he returned to police station and gave report to SHO, Bhimadole Police Station. In the cross examination, Pw.1 deposed that there were no pending cases against accused Nos.1 to 18 on the file of Bhimadole police station. PW.1 further deposed that he has no previous acquaintance with the accused. PW.1 further deposed that on the next day of the incident he went to hospital for treatment and he do not know whether the doctor is a Dentist or not. PW.1 further deposed that during the incident his teeth was broken. PW.1 further deposed that he could not identify the accused with their names and he could not say the names of specific persons who attacked him on the date of alleged incident . PW.1 further deposed that the investigation officer did not obtain his signature on the format of First Information Report. PW.1 further deposed that on the date of incident he went to the hospital immediately, but no doctors were present and then on the next day morning he went to the hospital. PW.1 further deposed that they also

booked cases relating to gambling and betting.

14. One K.Murali who is working as Police Constable examined as PW.2. He deposed that on 15.1.2022 the day of Sankranti as per the instructions of their officials to prevent the cock fights, gambling in the vicinity of Bhimadole police station surrounds. Pw.1, himself, LWs.3 to 7 conducted gathi and around 10.15 pm, PW.1 proceeded to SC colony, Gundugolanu along with them and found some persons gathered there and PW.1 understood that persons gathered there were playing Kothabanthi by betting money and PW.1 tried to conduct raid with the assistance of them, all the persons attacked them and also abused them and also beat them with sticks. PW.2 further deposed that during the incident he sustained conjunction injury between Jaw and the ear and PW.1 sustained injury on the left side of the head and one teeth was broken. LW.5 Srinivasa Rao also sustained injury on his hand. The witness identified the accused who stood in the Court hall. In the cross examination, PW.2 deposed that MO.1 sticks does not contain the slips. PW.2 further deposed that on 16.01.2022 morning hours at 11.50 am they went to hospital and he do not know whether the doctor certified that there was no external injury on him. PW.2 further deposed that he do not know the accused prior to the incident. PW.2 further deposed that the blood was came out from the mouth of PW.1.

15. Pinninti Chiranjeevi is examined as Pw.3. He deposed that on 15.01.2022 he himself, Pw.1, PW.2 and other staff went to Gundugolanu to prevent playing cards, gambling and cock fights and reached there at 10.15 pm and they came to know about the gathering of persons at SC colony and they found some persons who are playing Kothabanthi game by betting with money and they tried to raid and they persons obstructed their duties and

attacked them and uttering them "*Sankranthi Samayamlo ma pai raid chestara*". PW.1 took them to road side point and by that time the persons beat them with survey sticks with an intention to kill them and the accused of the persons who attacked them on the date of incident. Pw.3 further deposed that during the incident the teeth of PW.1 was broken and PW.2 and LW.5 Srinivasa Rao sustained injuries during the incident. Pw.3 further deposed that the accused escaped from the scene . Int he cross-examination, PW.3 deposed that he do not know how PW.1 came to know the names of the accused which were mentioned in Ex.P1 report.

16. K.Naganjaneyulu who is police constable examined as PW.4. He deposed on the same lines as deposed by PWs.2 and 3. In the cross-examination, PW.4 deposed that the Pothunuru road is busy with traffic and he could not identify the accused with their names. PW.4 further deposed that he never informed anything about the accused who belongs to other villages to PW.1. He further deposed that he has not stated before police about the names of accused who belongs to Eluru.

17. Bale Srinivasa Rao who is working as Special Party Constable examined as PW.5. PW.5 deposed that on 15.01.2022 they went to Gundugolanu Village, SC colony along with PWs.1 to 4 and observed more than 50 persons playing with cards and also observed money and they tried to conduct raid, the persons who gathered there attacked them. PW.5 further deposed that PW.1 instructed them to come outside as the situation is not in their control . PW.5 further deposed that during the incident PW.1 sustained injuries on his head and teeth of PW.1 was broken and blood was came out from the mouth of PW.1 and he also sustained swelling injury on his left hand. In the cross-examination, PW.5 deposed that he has not stated before the

investigating officer that blood was coming out from the mouth of PW.1 at the time of alleged incident. PW.5 further deposed that he could not say the names of accused by seeing them. PW.5 further deposed that after the incident he was not went to the hospital . PW.5 further deposed that he could not identify the accused personally.

18. Pw.6 deposed that he is working as private employee and he further deposed that on 15.1.2022 at about 9.00 pm, PW.1 made a phone call to him and requested him to come to police station to drove the Jeep and accordingly, he went to police station and on jeep they reached Gundugolanu SC colony where they observed the gathering of the persons while playing cards by betting money and then PW.1 and his staff tried to conduct a raid and reached the gathering and the said persons attacked the Pw.1 and his staff and the persons uttered as *"Policelu raid ki Vastara malli malli rakudadu veellani Kottandi ra, Champeyandi Ra"* and then PW.1 and his staff while returning from the said place the said persons followed and beat the PW.1 and his staff with sticks. PW.6 further deposed that the accused of the persons participated in the incident and during the incident PW.1 sustained injury on his head and also on teeth of PW.1 and one constable sustained swelling injury on his face near ear and one Special party constable sustained swelling injury on his left hand. In the cross-examination,PW.6 deposed that the alleged place of offence i.e. SC colony, Gundugolanu is residential area.

19. One Kali Suneel Kumar examined as PW.7 and he deposed that on 15.1.2022 at 10.15 pm, at SC Colony, Gundugolanu some persons playing cards and in the mean while PW.1 and other several police persons came to the place for the purpose of raid and some persons tried to beat PW.1 and some persons gathered and observed the scene and he do not know what

happened later. Pw.7 further deposed that Pw.1 sustained injuries on his head and also on his teeth and some police constables also sustained injuries. PW.7 further deposed that at present he was not in a position to identify the persons. In the cross-examination, Pw.7 deposed that he was 11th ward volunteer and he was not volunteer of SC colony, Gundugolanu. Pw.7 further deposed that he do not know the accused and he has not shown the persons to the police.

20. One Allam Govinda Rajulu who is working as VRO examined as PW.8. He deposed that on 16.1.2022 while he was in his house the Circle Inspector of Police/LW.17 made a phone call to him and requested him to come scene of offence and LW.14 also accompanied with him and observed the scene of offence and found the sticks under the cover of mediator report and they also recovered sticks from the another scene of offence situated near main road. PW.8 further deposed that the sticks like MO.1 are freely available in the open market and MO.1 sticks does not contain the slips with their signatures. PW.8 further deposed that there is no guard posted at the alleged scene of offence at the time of their visit. PW.8 further deposed that the scene of offence is surrounded by the residential area and the ward members and other public representatives, respectable persons available in the vicinity of the alleged scene of offence, but police did not choose to summon or request to act as mediator for scene observation.

21. Dr. M.Mary- Civil Assistant Surgeon examined as PW.9. She deposed that on 16.01.2022 at 11.50 am PW.1 , PW.2 and PW.5 came to Government hospital, Eluru and she has examined PW.1 and found the injuries i.e. abrasions on neck and back, contusion on right arm and left arm and teeth broken. PW.9 further deposed that the injuries are grievous in nature, PW.9 further deposed that on the same day, she also examined PW.2, she found

the injuries i.e. No external injuries by-lateral ear pain was present and she opined that the injuries are simple in nature. PW.9 further deposed that she also examined B.Srinivasa Rao and found swelling on left hand and she opined that the injuries are simple in nature. PW.9 further deposed that she do not remember the Dentist who gave opinion. PW.9 further deposed that she referred PW.1 to Dentist and she further deposed that she has not attached the X-ray or dentist opinion along with wound certificate. She further deposed that she has not mentioned the specific location of teeth which said to have been broken. PW.9 further deposed that the injuries in Ex.P4 to P6 may be possible when a person beaten with sticks like MO.1. Pw.9 further deposed that she has not mentioned whether the age of injury.

22. U.Venkateswara Rao -ASI of Police examined as PW.10. He deposed that on 16.1.2022 while he was in police station at 1.00 am the Sub Inspector of Police came to police station and gave a report to him and read over the contents of the report and he registered the case in Crime No.31/2022 under Sections 147, 148, 332, 333, 307 read with 149 of Indian Penal Code and submitted the original FIR to the Court and copies to concerned officials. In the cross-examination, PW.10 deposed that he has not added any section of law under A.P. Gaming Act in the FIR. PW.10 further deposed that on lockup death was occurred during the tenure of PW.1 at Bhimadole Police Station. In the cross examination PW.10 deposed that the incident was occurred at 10.15 pm and PW.1 lodged FIR at 1.00 am and he has not mentioned reasons for delay in Column No.8 .

23. M.Subbarao – Inspector of Police is examined as PW.11. He deposed that on 15.1.2022 at 1.00 am i.e. intervening night of 15.01.2022 and 16.01.2022, he received the report and First Information report copy from ASI

1466/PW.10 and verified the contents of report and started investigation and secured PW.1, PW.2, PW.3, Pw.4, PW.5, Lws.6 and 7 and examined them and recorded their statements and thereafter, he sent PW.1 , PW.2, PW.5 to the Government hospital, Eluru for treatment. PW.11 further deposed that on 16.1.2022 at 7.30 am he secured the presence of mediators and reached the SC Colony, Gundugolanu at 8.00 am and he observed the scene of offence No.1 and seized MO.1 sticks from the scene of offence and also observed the scene of offence No.2 and prepared scene observation report. PW.11 deposed about the apprehension of the accused in this case and also about the filing of charge sheet. In the cross examination, PW.11 deposed that no witnesses stated before him that there were 50 persons gathered and playing Kothabanthi game. PW.11 further deposed that he has not found any playing cards in the alleged scene of offence. He further deposed that he has not secured any local inhabitants near Asram hospital and not conducted any panchanama at the time of apprehension. PW.11 further deposed that he has not conducted any Test identification parade in this case . He further deposed that he has not examined the Dentist who allegedly treated PW.1. He further deposed that both the scene of offences are situated at residential area. PW.11 further deposed that the FIR was registered after 2½ hours of the incident. PW.11 further deposed that he has not appointed any guard at the scene of offence on the intervening night of 15/16.01.2022. PW.11 further deposed that he has not produced any documents to show that PWs.1 to 5 and LW.6 and LW.7 are in official duties at the time of alleged incident. PW.11 further deposed that in Ex.P1 the names of the persons who helped PW.1 in ascertaining the names of the accused. PW.11 further deposed that the length of the teeth of PW.1 was not as it is and teeth was broken . He further deposed that PW.1 sustained bleeding injury . PW.11 further deposed that he has not produced any photograph to show the injury.

24. The learned Additional Public Prosecutor contended that the prosecution proved the case beyond all reasonable doubt. The learned Additional Public Prosecutor further contended that the accused attacked Pw.1 and his staff and also abused them and beat them with sticks while discharging the official duties of PW.1 and police staff. The learned Additional Public Prosecutor further contended that the prosecution witnesses consistently deposed about the incident and therefore, the prosecution proved the guilt of the accused beyond all reasonable doubt. The learned Additional Public Prosecutor prayed the Court to convict the accused.

25. The learned Additional Public Prosecutor relied on a Judgment reported in Nityanand vs. State of U.P and Another Criminal Appeal No.1348/2014 decided on 04.09.2024 by the Supreme Court of India and also relied on the Judgment reported in Balusudham Khalde and another vs. State of Maharashtra Criminal Appeal No.1910/2010 decided on 29.03.2023 by the Supreme Court of India.

26. The learned counsel for the accused contended that

- i) There is no proper explanation from the prosecution how they ascertain the names of the accused.
- ii) No test identification parade was conducted
- iii) The prosecution alleged that all the accused playing Kothabanthi, but the FIR was not registered the offence under A.P. Gaming Act.
- iv) The MO.1 does not contain the slips allegedly affixed by the mediators in the presence of police
- v) The police allegedly seized the weapons from the open place , but there was no guard at alleged scene of offences
- vi) The decisions relied by the Additional Public Prosecutor are not applicable to the present case on hand as there is no previous enmity between the parties.

- vii) The prosecution failed to produce any documentary proof to show that PW.1 and other staff were on official duty on the date of alleged incident and thereby, the section 332 and 333 of IPC was not attracted in this case.
- viii) The prosecution failed to produce report of Dentist
- ix) There is no criminal antecedents to the accused
- x) The evidence of medical officer did not speak about the basis for opinion as grievous as she failed to file alleged opinion of Dentist.
- xi) There is a delay in lodging the First Information Report, but there is no explanation.
- xii) The evidence of PW.7 is contrary to the evidence of PW.1.
- xiii) Admittedly the alleged scene of offences situated at residential areas, but the police did not choose to secure the presence of local inhabitants to act as mediators for seizure.
- xiv) The police did not produce any photograph to show the injury as mentioned in Ex.P4
- xv) There are so many contradictions and omissions in the evidence of prosecution.

The leaned counsel for the accused prayed this Court to acquit the accused.

27. The case of the prosecution is that on 15.01.2022 the defacto complainant along with his staff and special party police conducted patrolling in the limits of Bhimadole Police Station and on the receipt of credible information on 16.01.2022 at about 10.15 hours the complainant along with his staff went to SC Colony , Gundugolanu Village and observed some of the persons who gathered there and playing Kothabanthi game and defacto complainant along with his staff tried to conduct raid and the accused pounced upon them and uttered them and also attacked them and also beat them, as a result the defacto complainant received severe head injury over his head back side and one of the upper teeth was broken and received contusion injuries

over the body and other police constables also received injuries. It is further averred in the charge sheet that the defacto complainant and his staff identified the persons as accused and thereafter, the defacto complainant along with his staff came to police station and lodged a report against the accused. The case was registered under Sections 147, 148, 332, 333, 307 read with 149 of IPC and investigated into. During the course of investigation, the investigation officer recorded the statements of witnesses and also observed the scene and seized Mos sticks from the scene of offence and also got drafted scene observation report. On 17.01.2022 LW.17 arrested the accused No.1 to 3, 5 to 7, 11, 13 to 17 and 19 to 21 and A9 and A10 surrendered before the judicial magistrate of I class on 20.01.2022 and A12 got anticipatory bail. The investigation officer completed the investigation and filed charge sheet against the accused.

28. PW.1 deposed that they ascertain the names of the accused from the public and LW.9 Kali Sunil Kumar and also from their staff. IN the cross-examination, PW.1 deposed that he has no previous acquaintance with the accused. Pw.1 further deposed that he do not remember the names of the staff from whom he ascertain the names of the accused. PW.1 further deposed that he has not ascertain the names of the accused from public. PW.2 deposed that PW.1 ascertain the names of the accused. PW.3 deposed that he knows the accused belongs to Gundugolanu and he do not know the accused belongs to Eluru and he was not informed any names of the investigation officer in this case.

29. One Kali Sunil Kumar examined as PW.7. He deposed that he was not in a position to identify the accused. In the cross-examination, PW.7 deposed that he has not shown the persons and identified them with the names before the police . PW.7 deposed that on the alleged date of incident some persons

tried to beat PW.1 and he do not know what happened later. In the cross-examination, PW.11 who is investigating officer in this case deposed that he has not conducted any test identification parade in this case. The prosecution failed to explain how the defacto complainant came to know the names of the accused.

30. In this case, the prosecution alleged that the police tried to raid at the gaming place as Kothabanthi game is going on by betting money. The police did not choose to add Gaming Act in this case and no material was seized from the scene of offence to show that Kothabanthi game was conducted at the place of offence, it discloses there is no clarity in the case of prosecution.

31. The prosecution alleged that the accused beat PW.1 and his staff with sticks. The prosecution produced MO.1 sticks by contending that the sticks were seized at the scene of offence. PW.11 deposed that there is no slips on the sticks. The learned counsel for the accused contended that the police seized the sticks from the alleged scene of offence one day after the alleged incident. PW.11 further deposed that he has not appointed any guard at the scene of offence on the intervening night of 15/16.01.2022 . It is well settled law that recovery of a weapon from an open space accessible to all not reliable.

32. The police registered the case under Section 332 and 333 of IPC apart from other sections . At this juncture, it is apt to extract the Section 332 and 333 of Indian Penal Code which reads as follows:

332. Voluntarily causing hurt to deter public servant from his duty:- Whoever voluntarily causes hurt to any person, being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public

servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

333: Voluntarily causing grievous hurt to deter public servant from his duty:- Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

33. In order to prove the accusation under section 332 and 333 of IPC, the prosecution has to prove that the public servant are in duty and while discharging the duty the accused voluntarily causing grievous hurt or hurt to deter public servant from discharging his duties. In the cross-examination, Pw.11 deposed that he has not filed any documentary proof to show that PW.1 and other staff were on official duty and date of alleged incident. The prosecution has to prove that the defacto complainant and his staff on duty on the date of alleged incident.

34. Now it is to be seen that whether the prosecution proved the case by adducing medical evidence. Pw.1 deposed that on the date of incident he went to hospital for treatment and on the next day also he got treatment. PW.11 deposed that he send the PW.1, PW.2 and PW.5 to the Government hospital, Eluru for treatment on the intervening of 15.01.2022/16.01.2022. The doctor who conducted medical examination on PW.1 is examined as PW.9. On perusal of Ex.P4 it is clear that the medical examination conducted on

16.01.2022 at 11.50 am. The remaining injured also examined on the same day, whereas the prosecution case is that the injured send to the hospital on the intervening night of 15/16.01.2022. Ex.P4 does not contain the age of injury. Ex.P4 discloses that the 3rd injury is teeth broken. There is no size of the injury and there is no clarification about the location of teeth in Ex.P4. The prosecution failed to produce any X-Ray or opinion of the Dentist. Ex.P4 discloses that Dental opinion is in grievous. In the cross-examination, PW.9 deposed that she has not attached the X-ray or dentist opinion along with the wound certificate. She further deposed that prior to 16.01.2022 at 11.50 am PW.1, PW.2 and PW.5 never came to hospital. PW.9 further deposed that the teeth was loosed and he further deposed that the injuries mentioned in Ex.P4 to P6 may be possible when a person beaten with sticks like MO.1. There is a contradiction in respect of examination of the medical examination of injured in this case. The investigation officer deposed that he send the injured to the hospital on the same day. PW.1 deposed that he went to hospital for treatment after the incident and on the next day of the incident. Further, the police did not produce any photograph to show the injury as mentioned in Ex.P4. The prosecution failed to produce proper medical evidence to substantiate their version.

35. The learned counsel for the accused contended that there is a delay in lodging the First Information report, but there is no explanation. It is true, there is 2½ hours delay in lodging the FIR in column No.8 of FIR there is no reason assigned for delay in lodging the First Information Report. Further, the alleged scene of offence situated at residential areas as admitted by the prosecution witnesses, but the police failed to secure local inhabitants of the locality where the alleged scene of offences are situated to act as mediators for scene observation. The prosecution failed to explain why the police could

not secure the local inhabitants to act as mediators for scene observation report. Further, the prosecution alleged that the accused attempted to commit murder on PW.1 and his staff. There is no proof before this Court to show that the accused attempted to commit murder on PW.1 and prosecution also failed to prove the presence of accused and identification before this Court. The prosecution failed to explain how the defacto complainant ascertain the names of the accused and inserted in Ex.P1. The evidence of prosecution is with contradictions and omissions and thereby, accused are entitled for benefit of doubt.

36. The learned Additional Public Prosecutor relied on a Judgment reported in ***Nityanand vs. State of U.P and Another Criminal Appeal No.1348/2014 decided on 04.09.2024*** by the Supreme Court of India, wherein it was held that “every person who, at the time of committing of that offence, is member of said assembly, is guilty of that offence”. In the case on hand, the prosecution failed to prove the presence of the accused . PW.1 deposed that he could not identify the accused with their names so also their names and address particulars. PW.2 also deposed that he do not know the accused prior to the incident. PW.3 deposed that he knows the accused belongs to Gundugolanu village and he do not know the accused belongs to Eluru and he did not inform any names to the investigating officer in this case so also PW.1. Pw.3 further deposed that he do not know how PW.1 came to know the names of the accused which were mentioned in Ex.P1. Therefore, the ratio laid down in the above judgment is not applicable to the present case on hand.

37. The learned Additional Public Prosecution further relied on the judgment reported in ***Balusudam Khalde and another vs. State of Maharastra Criminal Appeal No.1910/2010 decided on 29.03.2023*** by the Supreme

Court of India wherein it was held that “*When the evidence of an injured eye witness is to be appreciated, the under noted legal principles enunciated by the Courts are required to be kept in mind*”:

- a) The presence of an injured eye witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.
- b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.
- c) the evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.
- d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.
- e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.
- f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

In the case on hand, as observed above the prosecution failed to ascertain the identity of the accused person and the investigation agency did not choose to conduct test identification parade as the injured having no acquaintance with the accused persons. Further, the prosecution failed to prove the recovery of MO.1 and also failed to produce proper medical evidence. There is a contradiction in the evidence in respect of medical examination. The prosecution failed to produce report of the Dentist or X-Ray or any other photograph to substantiate their version. Further, the witnesses are belongs to the police department and no independent witnesses supported the version of prosecution. In these circumstances, the ratio laid down in the above said judgment is no way helpful to the accused.

38. From the above discussion, the prosecution failed to prove the alleged offence under Section 147, 148, 332, 333, 307 read with 34 of IPC beyond reasonable doubt. Accordingly, the accused are entitled for acquittal.

39. In the result, the Accused A.1 to A.3, A.5 to A.7, and A.9 to A.21 is found not guilty for the charge punishable under Sections 147, 148, 332, 333 and 307 read with 34 of Indian Penal Code and they are acquitted under Section 235(1) of Criminal Procedure Code. The surety bonds of surety persons and bail bonds of accused, if any, shall stand cancelled after expiry of appeal time as contemplated under Section 437-A Cr.P.C.

Further the MO.1 - 9 survey sticks and unmarked property if any shall be destroyed after expiry of appeal time, if not required in the connected case.

Typed to my dictation by the Stenographer Grade II, corrected and pronounced by me in Open Court, on this the 17th day of January, 2025

Sd/- K.K.V.Buli Krishna
ADDITIONAL ASSISTANT SESSIONS JUDGE,
ELURU.

APPENDIX OF EVIDENCE
WITNESSES EXAMINED

FOR PROSECUTION:

P.W.1	-	V.S.Veerabhadra Rao
P.W.2	-	K.Murali
P.W.3	-	Pinninti Chiranjeevi
P.W.4	-	K.Naganjaneyulu
P.W.5	-	Bale Srinivasa Rao
P.W.6	-	Kolukuluri Rambabu
P.W.7	-	Kali Sunil Kumar
P.W.8	-	Allam Govinda Rajulu
P.W.9	-	Dr.M.Mary
P.W.10	-	U.Venkateswara Rao
P.W.11	-	M.Subbarao

FOR DEFENCE: -None-

DOCUMENTS MARKED

FOR PROSECUTION:

Ex.P.1	-	Report given by PW.1
Ex.P.2	-	Scene observation report -1
Ex.P.3	-	Scene observation report -2
Ex.P.4	-	Wound certificate of VSV Bhadra Rao/PW.1
Ex.P.5	-	Wound certificate of PW.2
Ex.P.6	-	Wound certificate of B.Srinivasa Rao/PW.5
Ex.P.7	-	First Information Report
Ex.P.8	-	Rough sketch -1
Ex.P.9	-	Rough sketch -2

FOR DEFENCE: -- Nil --

MATERIAL OBJECTS MARKED:

MO.1 – 9 Survey Sticks

Id/- K.K.V.B.K
A.A.S.J., ELURU.

TABULAR FORM ANNEXED TO THE JUDGMENT IN **S.C.No.133/2023** ON THE FILE OF ADDITIONAL ASSISTANT SESSIONS JUDGE, ELURU UNDER RULE 354 OF THE CRIMINAL RULES OF PRACTICE.

1	Sessions Case No. and P.R.C.No. with name of the committal Court	:	S.C.No.133/2023 and PRC.No.4/2022 of Judicial Magistrate of First Class, Bhimadole in Crime No.31/2022 of Bhimadole Police Station.
2	Name of the Police Station and Crime No.	:	Bhimadole Police station in Cr.No.31/2022
3	Description of the Accused:	:	1. Vallepu Thirupatayya S/o Chinna , 27 years, C/Vaddera, 2. Vallepu Yesu S/o Venkateswarlu, 22 years, 3. Vallepu Venkanna, S/o Chinna, 32 years, J1. XXXXXXXXXX(Juvenile in conflict with Law) 5. Vemula Raju @ Gali Raju, S/o Guruvulu, 40 years, 6. Vemula Mariya Babu, S/o Yellayya, 21 years, 7. Gunje Venkatesh, S/o Bhushanam, 22 years, Vaddera, Seethampeta Village, Denduluru Mandal J2. XXXXXXXXXXXX(Juvenile in conflict with Law) 9. Gunje Veeranna, S/o Gopalam, 22 years, Vaddera, Seethampeta Village, Denduluru Mandal 10. Gunje Yellayya, S/o Venkanna, 33 years, 11. Gunje Pichiyya @ Dachepalli Yedukondalu, S/o Venkanna, 42 years, 12. Gunje Peddiraju, S/o Gopalam, 38 years,

		13. Vemula Kranthi Prasad, S/o Godavari, 23 years, Vaddera, near Chiranjeevi Bus Stand, Eluru 14. Vemula chinna S/o Venkateswara Rao, 25 years, Vaddera, near Chiranjeevi Bus Stand, Eluru 15. Gunja Hanumanthu @ Chinni, S/o simhadri, 20 years, C/Vaddera, Rangarao colony, Eluru 16. Kommiri Raghava, s/o Sattiraju, 21 years, vaddera, Rangarao Colony, Eluru 17. Battula Yesudasu, S/o Yedukondalu, 21 years, Vaddera, near Chiranjeevi Bus Stand, Eluru 18. Chandragiri Prasanth Raju @ Prasanth S/o Thirupathi Rao, 19 years, Vaddera, near Chiranjeevi Bus Stand, Eluru 19. Gunje Yakob Raju @ Ramakrishna Yakob Raju, S/o Venkanna, 25 years, Vaddera , N/o Savaram Village, Amalapuram, East Godavari District, Now at Eluru 20. Karri Tharun Kumar, S/o Sattibabu, 20 years, T.Kapu, Ponangi road, Eluru 21. Kommiri Jayaraju S/o Rangaraju, 22 years, Vaddera, Vadderagudem, Near Chiranjeevi Bus Stand, Eluru A1 to A.3, A5 & A6, A10, A11, A12 are R/o SC Colony, Gundugolanu Village of Bhimadole Mandal
4	Date of Offence	: 15.01.2022
	Date of Complaint	: 16.01.2022
	Date of Apprehension	: 17.01.2022-- (A1 to A3, A5 to A7, A11, A13 to A17 and A19 to A21 22.01.2022 --(A9 & A10) 08.04.2022 --A18

			09.04.2022 - A12
	Date of Release on bail	:	18.02.2022 – A13, A14, A17, A 20 12.04.2022 – A12 26.04.2022 - A18 19.02.2022 - A1 to A3, A5 to A7, A9, A10, A19, 20.02.2022 – A11, A15,A16, A21
	Date of Committal	:	27.01.2023
	Date of Commencement of trial	:	04.11.2024
	Date of Close of Trial	:	29.11.2024
	Date of Sentence or Order	:	17.01.2025
5	Explanation for the delay	:	No delay

ORDER:

In the result, the Accused A1 to A3, A5 to A7, and A.9 to A21 is found not guilty for the charge punishable under Sections 147, 148, 332, 333 and 307 read with 34 of Indian Penal Code and they are acquitted under Section 235(1) of Criminal Procedure Code. The surety bonds of surety persons and bail bonds of accused, if any, shall stand cancelled after expiry of appeal time as contemplated under Section 437-A Cr.P.C.

Further the MO.1 - 9 survey sticks and unmarked property if any shall be destroyed after expiry of appeal time, if not required in the connected case.

Sd/- K.K.V.Buli Krishna
ADDITIONAL ASSISTANT SESSIONS JUDGE,
ELURU.

Copies submitted to:

The Honorable District and Sessions Judge, West Godavari, Eluru.

Copies to:

1. The Addl. P.P., Additional Assistant Sessions Judge's Court, Eluru.
2. The Superintendent of Police, Eluru District, Eluru.