

State Of Karnataka Vs. Krishna

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Court : Karnataka

Decided On : Nov-18-2021

Judge : K.Somashekar and Pradeep Singh Yerur

Appeal No. : CRL.A 1442/2016

Appellant : State Of Karnataka

Respondent : Krishna

Advocate for Def. : Sri. C.R.Gopaldaswamy

Judgement :

R1IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE18H DAY OF NOVEMBER, 2021 PRESENT THE HON'BLE Mr. JUSTICE K.SOMASHEKAR AND THE HON'BLE Mr. JUSTICE PRADEEP SINGH YERUR CRIMINAL APPEAL No.1442 OF 2016 BETWEEN: STATE OF KARNATAKA BY HULIYURDURGA POLICE STATION TUMKURU DISTRICT REPRESENTED BY THE STATE PUBLIC PROSECUTOR HIGH COURT BUILDING BENGALURU - 560 001 ... APPELLANT (BY SRI RAHUL RAI K., HCGP) AND:

1. KRISHNA S/O.LATE RAMAIAH AGED ABOUT56YEARS2 RAMESHA S/O.KRISHNA AGED ABOUT21YEARS3 VENKATESHA S/O.LATE CHIKANNA AGED ABOUT31YEARS ACCUSED NOS.1 TO3ARE R/AT SUGGANHALLI VILLAGE2HULIYURDURGA HOBLI KUNIGAL TALUK - 572 130 4. SRINIVASA S/O.LATE THIMMAIAH AGED ABOUT54YEARS R/AT PURA VILLAGE

HULIYURDURGA HOBLI KUNIGAL TALUK TUMKURU DISTRICT - 572 130 ...
RESPONDENTS (BY SRI C.R.GOPALASWAMY, ADVOCATE) ***** THIS
APPEAL IS FILED UNDER SECTIONS 378(1) & (3) CR.PC AGAINST THE

JUDGMENT
AND

ORDER

OF ACQUITTAL DATED 30.03.2016 PASSED BY VI ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TUMKUR IN S.C.NO.76/2015 ACQUITTING THE
RESPONDENTS/ACCUSED NOS.1 TO 4 FOR THE OFFENCES PUNISHABLE
UNDER SECTIONS 504, 307, 324, 114, 506(B) READ WITH SECTION 34 OF IPC
AND ETC. THIS APPEAL COMING ON FOR HEARING THIS DAY,
K.SOMASHEKAR J., DELIVERED THE FOLLOWING:

JUDGMENT

This appeal is directed against the judgment of acquittal rendered by the trial Court in SC.No.76/2015 dated 30.03.2016 acquitting the respondent/accused for the offences punishable under Sections 504, 307, 324, 114, 506(B) read with Section 34 of the Indian Penal Code, 1860 (for short IPC). The State has filed this appeal seeking to set aside the judgment of acquittal rendered by the trial Court and consequently to convict the accused for the aforesaid offences considering the grounds urged in the appeal memo.

2. We have heard the arguments advanced by learned High Court Government Pleader for State and so also Sri C.R.Gopalaswamy, learned counsel for respondents/ accused, who are present before the Court physically. Perused the impugned judgment of acquittal rendered by the trial Court in SC.No.76/2015.

3. Factual matrix of this appeal is as under: It transpires from the case of prosecution that on 19.07.2014 at about 6.30 p.m. when CW.1- Venkatesha P.R. who is alleged to be an injured came in front of the shop of Naganna to bring some workers for the purpose of attending his work, in the meanwhile, accused Nos.1 to 3 allegedly picked up a quarrel with injured Venkatesha by abusing him in a filthy

language with an intention to take away his life. Therefore, accused 4 No.2 alleged to hit CW.1-Venkatesha with a means of stick on his back, left and right shoulder, accused No.3 alleged to hit CW.1-Venkatesha with means of a chopper on his head and accused No.1 alleged to hit CW.1-injured Venkatesha with a means of a stick on his left hand and as a result of same, it caused grievous injuries to him. During the course of incident, accused No.4 who alleged to instigate accused Nos.1 to 3 to take away life of CW.1- Venkatesha. In pursuance of the act of accused, on filing of a complaint on 20.07.2014, a criminal law was set into motion by registering the case in Crime No.112/2014 for the offences which are reflected in the FIR. Subsequent to registration of FIR, the Investigating Officer has taken up the case for investigation and investigation has been thoroughly done and has laid the chargesheet against the accused before the Court of having the jurisdiction.

4. Subsequent to laying of chargesheet against the accused by the Investigating Agency before the Committal Court, the case has been committed by the Committal 5 Court by passing an order under Section 209 of Code of Criminal Procedure, 1973 (for short Cr.PC) by following procedure under Sections 207 and 208 of Cr.PC. Accordingly, the case has been committed to the Court of Sessions for trial. Subsequent to committing of the case to the trial Court, the trial Court had framed the charges for the offences punishable under Sections 307, 324, 504, 506(B) and 114 read with Section 34 of IPC, 1860, whereby the accused have been declined the charges framed against them but claims have been tried. Accordingly, plea of the accused persons has been recorded separately.

5. Subsequent to framing of charges by the trial Court, the prosecution has let in evidence by subjecting to examine witnesses as per PWs.1 to 14 and got marked documents as per Exs.P1 to P22 and got marked material objections as per M.Os.1 to 4. On closure of evidence on the part of prosecution, accused persons were examined as contemplated under Section 313 of Cr.PC for enabling 6 incriminating evidence, whereby accused have declined the truth of evidence of the prosecution adduced so far. After recording of incriminating statements under Section 313 of Cr.PC, the accused did not come forward to adduce any evidence on the side of the defence as contemplated under Section 233 of Cr.PC.

Subsequent to closure of evidence, the trial Court has heard the arguments advanced by the prosecution and so also the counsel on the side of defence and so also evaluating evidence supported with documents as per Exs.P1 to P22, arrived at a conclusion that the prosecution did not establish the guilt against the accused beyond all reasonable doubt and consequently, rendered the judgment of acquittal by assigning reasons.

6. The judgment of acquittal has been challenged by the State under this appeal by urging various grounds.

7. Learned High Court Government Pleader for State has relied on the evidence of PW.1-Venkatesha, who is none other than the injured and he took a treatment initially by PW.13-Dr.Sumathi S. at Kunigal Government 7 Hospital and subsequently, he has been shifted to NIMHANS Hospital, Bengaluru for further treatment. Thereafter, the injured was subjected to treatment by PW.6-Dr.Shashidhara who has issued wound certificate at Ex.P12. PW.1-Venkatesha has given statement as per Ex.P1 and his evidence has supported the averments made in the complaint at Ex.P2. However, Ex.P2 has been filed by his father, PW.9-Ramananda and based upon his complaint, a criminal law was set into motion and an FIR has been registered as per Ex.P14 by PW.12-Ramalingaiah who is a Head Constable has subscribed his signature on Ex.P1(c), PW.11-Ramachandraiah, who is an ASI has subscribed his signature on Ex.P1(b) and PW.14- Dharmegowda who is an Investigating Officer has done the investigation and laid chargesheet against the accused.

8. During the course of investigation, PW.14 being an Investigating Officer has drawn the spot mahazar as per Ex.P3 in the presence of PWs.2 and 7 being panch witnesses. Ex.P13 is seizure mahazar which has been drawn by PW.14 being an Investigating Officer in the presence of PWs.8 and 10. However, PW.2-Hemaraju who turned hostile even though he is a mahazar witness and has subscribed his signature on Ex.P3(a) and PW.8- Lakshmikantha who is a panch witness and in his presence, seizure mahazar at Ex.P13 has been drawn by PW.14. Merely because they have turned hostile with aforesaid mahazar at Exs.P3 and P13, their evidence did not come in the way of prosecution for

consideration. PW.1-Venkatesha, who is an injured witness has given a statement at Ex.P1. Even though it is a supplementary statement, Ex.P2-complaint has been lodged by his father, PW.9-Ramananda and he has narrated as to how the incident had taken place and as to how accused Nos.1 to 3 said to have been assaulted on him and caused injuries as reflected in the wound certificate at Ex.P12 and so also, the injuries were inflicted on him and the reviews are in the MLC extract at Ex.P15 and the same has been maintained by PW.13-Dr.Sumathi S., who initially treated the injured at Kunigal Government Hospital. These are all 9 the material evidence on the part of the prosecution. However, the trial Court did not appreciate the evidence in a proper perspective manner. Therefore, in this appeal requires re-appreciation of evidence and re-visit of material documents that too, Ex.P3-spot mahazar and Ex.P13-seizure mahazar relating to seizure of M.O.1-knife and M.Os.2 and 3 - sticks (2 in Nos.), M.O.4-blood stained white colour shirt alleging that there is blood stained on the cloth and the evidence of PWs.1 and 9 and inclusive of evidence of PW.11 who is an ASI, PW.12-Head Constable who registered an FIR, PW.13-Doctor who treated the injured initially, PW.14-Investigating Officer who conducted entire investigation and laid the chargeheet against the accused.

9. Ex.P12 is the wound certificate issued by PW.6 who is the Doctor who has given treatment to the injured. The injuries were inflicted on the injured by using M.O.1- knife, M.Os.2 and 3-sticks (2 in numbers). Though assault made by accused Nos.1 to 3 and even accused No.4 who 10 instigated the aforesaid co-accused for commission of an offence, all accused were attempted to take away the life of PW.1-Venkatesha who is the injured. These are the contentions urged by learned High Court Government Pleader for State seeking for intervention in this appeal relating to judgment of acquittal rendered by the trial Court as the trial Court misdirected and misinterpreted evidence of PWs.9 and the official witnesses, PWs.12, 13 and 14. On all these premises, learned High Court Government Pleader for State seeks to consider the grounds urged in this appeal and to intervene impugned judgment of acquittal rendered by the trail Court and consequently, convict the accused for the offences which are leveled against them.

10. Sri C.R.Gopaldaswamy, learned counsel has countered the arguments advanced by the learned High Court Government Pleader for State by contending that the incident was taken place on 19.07.2014 at about 6.30 p.m. and alleging that all the accused with an intention to take 11 away life of CW.1-Venkatesha who is subjected to examine as PW.1 as there was a quarrel between the complainant and accused persons and also alleging that accused persons used material objects M.O.1 which is neither a chopper nor a knife and M.Os.2 and 3 - sticks (2 in numbers) and due to altercation took between complainant and accused, alleged incident was taken place, but Ex.P.1 is the statement given by CW.1, who is an injured but complaint at Ex.P2 has been forwarded through his father PW.9-Ramananda and based upon the complaint, a criminal law was set into motion by registering an FIR as per Ex.P14. There shall be some due deliberation, discussion and consultation as the incident was taken place on 19.07.2014, consequently criminal law was set into motion by registering an FIR as per Ex.P14 on 20.07.2014. The Medical Officer-PW.13-Dr.Sumathi S., who had initially treated the injured-PW.1 on 20.07.2014. She has specifically stated in her evidence that the injured was brought before her with the history of assault by more persons, who are said to be arraigned as accused. The 12 Investigating Officer-PW.14 laid the chargesheet against the accused and conducted the spot mahazar at Ex.P3 in the presence of PWs.2 and 7 and also recorded the statement of witnesses and apprehending the accused, produced them before the Court having a jurisdiction. At a cursory glance of evidence of PW1-Venkatesha who is an injured and also the evidence of PW.9 -Ramananda who is none other than the father of the injured, PW.9 had given a complaint as per Ex.P2 before the Head Constable-Ramalingaiah who is subjected to examine as PW.12 and he has subscribed his signature on Ex.P1(c). Even PW.11- Ramachandraiah, who is an ASI has subscribed his signature on Ex.P1(b). However, the evidence of PWs.1 and 9 has been facilitated by the prosecution in order to prove the guilt of the accused but PW.2 who is a panch witness has been secured by PW.14 and in his presence, Ex.P3-spot mahazar has been drawn, but PW.2 has been turned hostile and similarly, PW.8 who is a panch witness has been secured to act as panchas and has subscribed his signature on Ex.P13(a). The seizure mahazar at Ex.P13 13 has been drawn by PW.14 being an I.O. who laid chargesheet against accused

but PWs.2 and 8 did not support the case of prosecution relating to fulcrum of mahazar. Mahazars have been drawn by PW.14, which are at Ex.P3-spot mahazar and Ex.P13-seizure mahazar. Therefore, there is some contradictory and also inconsistency in the evidence of PW.14 and so also the evidence of PWs.2, 7, 8 and 10. The evidence has been scrutinised by the trial Court and inclusive of evidence of PW.6-Dr.Shashidhara who subjected to given treatment to the injured-PW.1 and issued wound certificate Ex.P12. The Doctor has opined in the wound certificate that injury Nos.1 and 2 are simple in nature and injury No.3 is grievous in nature and he has sustained abrasion over middle 1/3rd ulnar aspect of left forearm, lacerated wound over right side parietal region measuring about 4 x 1 cms and tenderness over middle 1/3rd of forearm (left). Mere issuance of wound certificate-Ex.P6 by the Doctor who subjected to give treatment to PW.1-Venkatesh, it cannot be held that the aforesaid injuries have been inflicted over 14 the injured by accused Nos.1 to 3 by means of M.O.1-knife and also the means of M.Os.2 and 3 sticks (two in numbers) alleged to have been used by the accused and so also instigation made by accused No.4 to co-accused Nos.1 to 3 intentionally for eliminating injured PW.1- Venkatesh.

11. It is further contended that there shall be some political rivalry in between PW.1-Venkatesh and also accused Nos.1 to 4. The allegations has been narrated in the complaint at Ex.P2 but the same has been forwarded by PW.1-Venkatesh through his father PW.9-Ramananda and that itself indicates that there shall be some due deliberation, consultation and discussion relating to filing of a complaint and also initiation of criminal law was set into motion against the accused alleging that they have caused injuries to the injured.

12. The prosecution even though subjected to examine in all PWs.1 to 14 but has mainly relied upon the evidence of PW.1-Venkatesha, who is an injured and PW.9-15 Ramananda, who is the father of injured and PW.9- Ramananda has filed the complaint at Ex.P2 whereby that complaint has been forwarded by Venkatesha, but PW.9 did not see the incident as to how it was occurred and as to how the accused alleged to have been assaulted the injured-PW.1-Venkatesha by using M.O.1 neither a chopper nor a knife, whereas, the grounds urged in this appeal that the accused in order to take away the life of PW.1-Venkatesha have picked up

a quarrel and used M.O.1-knife and same has been marked, but there shall be some variations relating to weapons neither knife nor chopper and the injury has been made either through chopper or through the knife and the knife has been marked as M.O.1 on the part of prosecution. Though prosecution has been subjected to examine several witnesses as PWs.1 to 14 but PWs.11 to 14 being the official witnesses and more so, it is found that their evidence has been inconsistency with the evidence of PWs.1 and 9 relating to statement of Ex.P1 and this statement has been given by the injured even after the 16 criminal law was set into motion by registering an FIR as per Ex.P14 but genesis of complaint at Ex.P2 and more so, supplementary statement at Ex.P1 given by PW.1- Venkatesha is hit by Section 161 of Cr.P.C. The supplementary statement which is set into trial is even in conformity with the averments made in the complaint or it would have been given later on with deliberation, discussion and consultation and same cannot be ruled out, but there is no credit worthy for consideration. Therefore, under this appeal, dwelling in detail does not arise as to the contentions made by the learned counsel relating to the accused, where causing injuries to the injured- PW.1- Venkatesh and also the wound certificate-Ex.P12 issued by PW.6 who has treated the injured. PW.6 has stated in his evidence that he was working as a Doctor in KIMS Hospital, Bengaluru and he has given treatment to the injured- PW.1-Venkatesha on 20.07.2014 and the injured was brought to the Hospital at about 1.00 a.m. in the night hours. Accordingly, he was subjected to give treatment to him with an history of assault. In the wound certificate at 17 Ex.P12, it is stated that the injured has sustained abrasion over the left forearm, lacerated wound over right side parietal region and tenderness over the middle 1/3rd of forearm (left). However, all the eye witnesses have been turned hostile and all the material witnesses on the part of prosecution have also turned hostile relating to the averments made at Ex.P2 and so also the supplementary statement at Ex.P1. Therefore, the trial Court, by analyzing the evidence and close scrutiny of evidence, has rightly come to the conclusion that though the witnesses of PWs.1 to 14 have been subjected to examine, the eye witnesses and other material witnesses have turned hostile and they did not withstand the statement given by them. However, the prosecution has facilitated the evidence by examining PW.1-Venkatesha who is the injured and also his father PW.9-Ramananda who lodged

the complaint as per Ex.P2 but held that the prosecution has failed to prove the charges leveled against accused with beyond all reasonable doubt. Therefore, the intervention cannot be made under this appeal by considering grounds urged and 18 also no ingredients has been proved or even elicited by the prosecution to prove the guilt of the accused. On all these premises, learned counsel for respondents/accused seeks for dismissal of this appeal being devoid of merits.

13. Whereas, the learned High Court Government Pleader for State relied upon the evidence of PWs.1 and 9 and also Ex.P1-supplementary statement of PW.1-Venkatesha. PW.9-Ramananda filed a complaint at Ex.P2 and based on which, a criminal law was set into motion by registering an FIR as per Ex.P14. It is relevant to refer to Section 3 of the Indian Evidence Act, 1872 with regard to proved fact and disproved fact. The proved fact when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists whereas the disproved fact is a fact when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so 19 probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. The concept of proved and disproved even though is on the part of prosecution, it has to be established to prove the guilt of the accused and similarly, the greater responsibility on the side of defence side is also to be put in the defence theory that minor contradictions and even inconsistency in testimony of any injured eye witness does not make untrustworthy and unreliable witness. However, in the instant case, PW.1- Venkatesha who is none other than the injured and he has given a supplementary statement at Ex.P1 and he has forwarded a complaint-Ex.P2 through his father PW.9- Ramananda, who had been subjected to examine and also he has given evidence relating to proving the guilt of the accused before the Court and the accused are facing up of a trial for the offences punishable under Sections 307, 324 and 504 inclusive of Sections 506-B of IPC. PWs.1 to 14 have been subjected to examine on the part of prosecution witnesses to prove the guilt of the accused beyond all 20 reasonable doubt. However, the domain is vested with the trial Court for appreciation of evidence, keeping in view of Section 3 of the Indian Evidence Act, 1872 and similarly Section

134 of the Indian Evidence Act, 1872 and number of particular witnesses have been entered into box on the part of prosecution to disclose the proved fact but merit of the statement is important in a criminal justice delivery system, but in the instant case, there is no worthwhile evidence for consideration.

14. It is a well known principle of law that reliance can be placed on solitary statement of a witness. The statement made by the person being injured or even the witness, it has to be considered as true and even the correct version of the case of prosecution. PW.13-Doctor who had initially treated the injured at Government Hospital, Kunigal and on the advice of PW.13-Doctor, he has been shifted to NIMHANS, Bengaluru and took treatment and subsequently, he was shifted to KIMS Hospital for further treatment, wherein PW.6-Doctor has treated the injured and has issued wound certificate as per Ex.P12 and it is found from the wound certificate that the injuries sustained by the injured are simple in nature, which are abrasion over left forearm, lacerated wound over right side parietal region and tenderness over middle 1/3rd of fore arm (left) part of his body. From all these injuries, the injured fell on the ground and if he has come into contact with rough surface, that injuries might have been inflicted and this contention made by the learned counsel in this appeal cannot be ruled out. This contention as made by learned counsel for respondents/accused and more so, in the instant case, PWs.1 and 9 are the material witnesses and PW.9 who is father of injured PW.1 and got marked document at Ex.P2-complaint and given that complaint to the Police having jurisdiction and based on complaint, a criminal law was set into motion and thereafter, PW.14- Investigating Officer has taken up the case for investigation and followed the requisite provisions of Section 173(2) of Cr.PC. and accordingly, recorded the statement of witnesses and also drew the spot mahazar as 22 per Ex.P3 and so also seizure mahazar at Ex.P13. During the course conducting the seizure mahazar at Ex.P13, material objects i.e. M.O.1-knife and M.Os.2 and 3-sticks (two in numbers) and M.O.4-blood stained white colour shirt have been seized in the presence of panch witness. PWs.3 to 10 have been secured to act as panch witnesses. PW.8-panch witness did not support to the fulcrum of facts of PW.13 and his evidence is contrary to evidence of PW.14-Investigating Officer. PW.14 has done entire investigation and laid charge sheet against the accused on production of M.Os.1 to 4. M.O.4-blood stained white colour shirt of the injured-

PW.1 was subjected to examine by the FSL Authority. The FSL authority-Malathi D. has chemically examined M.Os.1 to 4 and issued FSL report at Ex.P10. Even at a cursory glance of evidence of PW.6 being a Doctor who subjected to examine the injured- PW.1-Venkatesha and issued wound certificate at Ex.P12 and even at a close scrutiny of the evidence of PWs.1 and 9 on the part of prosecution, it appears that there shall be some contradictory evidence and there is no consistent, 23 corroborative and positive evidence which probablised that the accused have caused injuries to the injured as per wound certificate at Ex.P12 issued by the Doctor-PW.6 who has been subjected to examine the injured. In the instant case, several witnesses have been subjected to examine on the parts of prosecution for venturing to prove the guilt of the accused. However, the ingredients of Section 324 of IPC that the accused voluntarily causes hurt to any other person and that the accused did so intentionally or with the knowledge that which will cause brutal pain or infirmity to the victim that such hurt is caused by some sort of an instrument. These ingredients of Section 324 of IPC are required to be established to prove the guilt of the accused by the prosecution without giving any clouds of doubt. The ingredients of Section 504 of IPC are that the accused intentionally insults someone and the accused thereby intended to give him a provocation and due to that provocation, any kind of an incident may occur was erected and accused knew that it was provocation which 24 would cause that person to commit guilt of breach or to commit any other offence. Therefore, the ingredients of Section 504 of IPC is a domain vested with prosecuting agency to establish the guilt of the accused by facilitating worthwhile evidence, which would arrive at just and proper conclusion that the accused have committed alleged offences and probablised for causing some injuries inflicted on the injured, but there is no clinching evidence on the prosecution side for consideration as we opined.

15. The ingredients under Section 114 of IPC are required to be established by the prosecution that act was actually committed in pursuance of the abetement by the accused. Section 34 of IPC empowers that whether there is common intention to commit the offence but in the instant case, it is alleged that there was some provocation by accused No.4 to the co-accused Nos.1 to 3 and due to his provocation as to take away the life of injured-PW.1- Venkatesha, accused Nos.1

to 3 alleged to have assaulted the injured with means of M.Os.2 and 3-sticks (two in 25 numbers) and M.O.1-knife alleged to have used by the accused and due to the assault made by accused persons, the injured sustained injuries as reflected in Ex.P12-wound certificate issued by the Doctor. However, it leads to provocation as well as abetment as narrated even in the complaint. However, the case of the prosecution did not forthcoming with worthwhile evidence. The same has been observed by the trial Court for arrival of proper conclusion whereby it is held that the prosecution has miserably failed to prove the guilt of the accused. In the instant case, it requires commanding of the ingredients relating to Section 506 of IPC, which includes Parts-A and B. It is based upon the ingredients under Section 503 of IPC relating to commission of offence by accused persons who arraigned as accused in the chargesheet, the accused threatened/ intimidated someone with injuries: i) to his person, reputation or property; or ii) to the person or reputation of anyone in whom that person is interested; iii) with an intent to cause alarm to that person, or 26 iv) he did so to call the victim to perform any act which he was not bound legally; 16. The above said ingredients are important and domain vested with the prosecution Agency to prove by facilitating the worthwhile evidence. If the prosecution did not facilitate the worthwhile evidence, certainly, the trial Court has to appreciate the evidence keeping in view of Section 3 of the Indian Evidence Act. In the instant case, the prosecution even though mainly relied upon the evidence of PWs.1 and 9 relating to supplementary statement at Ex.P1 and even the complaint at Ex.P2 inclusive of evidence of PW.14 who being the Investigating Officer, who laid the chargesheet against the accused by drawing the spot mahazar as per Ex.P3 and so also at Ex.P13 for having seized M.Os.1 to 4, at a cursory glance of the aforesaid evidence which are facilitated by the prosecution are found inconsistency and also contradiction to each other and more so, the prosecution has miserably failed to prove the guilt of an accused by facilitating the 27 worthwhile evidence beyond all reasonable doubt. At the outset, on close scrutiny of evidence of PW.1 who is an injured has narrated about the assault made by the accused in his complaint-Ex.P2. However, his evidence on the part of prosecution reveals that initially, he was immediately taken to Kunigal Government Hospital from the scene of crime of the incident and PW.9-Ramananda who is none other than his father and thereafter, the injured was shifted to KIMS Hospital

in the ambulance in order to provide better treatment to save his life. At a cursory glance of evidence of PW.1-Venkatesh and PW.9- Ramananda who is none other than the father of injured and also the material witnesses on the part of prosecution, but their evidence are not corroborating to each other and there shall be some clouds of doubt and when the clouds of doubt are arisen on the part of prosecution, it is a settled position of law that doubt is always beheld in favour of accused alone. Accordingly, the trial Court has rightly come to the conclusion by scrutinising the evidence of PWs.1 and 9 and coupled with the evidence of PWs.2 to 28 4 even though these witnesses are material witnesses and also termed as eye witnesses, strangely PWs.2 to 4 have been turned hostile on their own statement and also not supported the fulcrum of Ex.P3-spot mahazar and also Ex.P13-seizure mahazar and even PWs.1 and 9 have been supporting the case of prosecution but their evidence did not absolutely supported the case of prosecution and also other material witnesses on the part of the prosecution, but turned hostile. PW.1-Venkatesha who is an injured and was subjected to medically examine initially by PW.13- Dr.Sumathi at Kunigal Government Hospital and subsequently, shifted him to KIMS Hospital, Bengaluru, wherein treatment was provided to him and issued wound certificate at Ex.P12. However, Ex.P19 discloses that PW.1 has consumed alcohol at time of incident. Therefore, the trial Court has assigned reasons that there shall be some political rivalry in between two groups of complainant and accused and also there shall be some civil dispute emerged in between them and it would termed into criminal in nature. Even taken into consideration of this aspect, the 29 prosecution did not establish the guilt of the accused beyond all reasonable doubt and insofar as PW.1- Venkatesha-who has sustained injuries alleged to have been inflicted by the accused as indicated in Ex.P12, but the prosecution did not facilitate worthwhile evidence to prove the guilt of the accused, whereas the quality of the evidence which is an important aspect on the part of the prosecution for consideration. It is the quality of the evidence and not quantity of the evidence which requires to be judged by the Court of law to give more credence on the statement of provability of witnesses. The witness does not include number of witnesses but appreciation of quality of evidence which is an important aspect and also for arrival of proper conclusion. The principles which should be adhered to, that the evidence must be weighed and not counted. The

evidence is a ring to truth whether it is cogent, credible and trustworthy or otherwise in accordance with relevant provisions of Indian Evidence Act The legal system has laid emphasis on value provided by each witnesses rather than multiplicity or plurality of 30 witnesses. It is a quality and not quantity which determines the adequacy of evidence as has been provided under Section 134 of the Indian Evidence Act, 1872. In the instant case, though prosecution has been subjected to several witnesses which are examined as PWs.1 to 14 and several documents and also mainly relied on the evidence of PW.1-Venkatesha, but the prosecution has miserably failed to prove the guilt of the accused by facilitating worthwhile evidence. Therefore, in this appeal, we are of the opinion that grounds urged in this appeal challenging judgment of acquittal do not hold any substance and it cannot arise for intervention. Consequently, the appeal deserves to be rejected. In view of the aforesaid reason, we proceed to pass the following:

ORDER

i) Appeal preferred by the appellant/State under Section 378(1) and (3) of Cr.P.C. is hereby rejected. Consequently, the judgment of acquittal rendered by the trial Court in SC.No.76/2020 dated 30.03.2020 is hereby confirmed; 31 ii) If any bail bond is executed by the respondents/accused, the same shall stand cancelled.

Sd/- JUDGE Sd/- JUDGE LB

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