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C H Ravikumar vs Krishnakumar

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Court : Karnataka

Decided On : Jan-31-2026

Judge : H.P.Sandesh,Venkatesh Naik T

Appeal No. : CRL.A/489/2023

Appellant : C H Ravikumar

Respondent : Krishnakumar

Judgement :

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31st DAY OF JANUARY, 2026 PRESENT THE HON'BLE MR. JUSTICE H.P.SANDESH AND THE HON'BLE MR. JUSTICE VENKATESH NAIK T CRIMINAL APPEAL NO.489/2023 BETWEEN:

1. C.H. RAVIKUMAR

AGED ABOUT 54 YEARS S/O LATE HUCHANNA RESIDING AT CHOTTANAHALLI VILLAGE KASABA HOBLI KUNIGAL TALUK. APPELLANT (BY SRI. C.H. JADHAV, SENIOR COUNSEL FOR SRI. PRADEEP KUMAR S.P., ADVOCATE) AND:

1. KRISHNAKUMAR S/O LATE DASEGOWDA AGED ABOUT 58 YEARS R/O KANNAGUNI VILLAGE KUNIGAL TALUK TUMAKURU DISTRICT.

2. SHANKAR GOWDA B.N., (SHOWN AS D.SHANKAR @ B.N.S.GOWDA IN TRIAL COURT JUDGMENT) AGED ABOUT 44 YEARS, R/O NO.142, 6TH MAIN HANUMARIGI HILLS LAYOUT AREHALLI, BENGALURU OCC: ASSOCIATE PROFESSOR BANGALORE INSTITUTE OF TECHNOLOGY

3. B.N. JAGADISH S/O D. NAGARAJAIAH, AGED ABOUT 38 YEARS R/O NO.36, 2ND CROSS 7TH MAIN, BSK III STAGE BENGALURU-560085.

4. STATE OF KARNATAKA BY KUNIGAL POLICE REP. STATE PUBLIC PROSECUTOR HIGH COURT BUILDINGS BENGALURU-560001. RESPONDENTS (BY SRI. S. SHANKARAPPA, ADVOCATE FOR R1 TO R3; SMT. RASHMI PATEL, HCGP FOR R4) THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(4) OF CR.P.C PRAYING TO ALLOW THIS APPEAL FILED BY THE

APPELLANT IN CRL.A.NO.51/2018 AND SET ASIDE THE ORDER

PASSED BY THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMAKURU VIDE ORDER DATED 28.11.2022 AND ALSO SET ASIDE THE ORDER PASSED BY THE LEARNED J.M.F.C., KUNIGAL, IN C.C.NO.400/2005 DATED 26.07.2018 AND CONSEQUENTLY CONVICT THE ACCUSED/RESPONDENTS NO.1 TO 2 FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 323, 324, 326, 504 R/W SECTION 34 OF IPC.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR

JUDGMENT ON 22.01.2026 THIS DAY, THE COURT

PRONOUNCED THE FOLLOWING: CORAM: HON'BLE MR. JUSTICE H.P.SANDESH AND

HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.P.SANDESH)

1. Heard the learned counsel for the appellant and also the learned counsel for the respondent Nos.1 to 3 and the learned High Court Government Pleader for respondent No.4.

2. This appeal is filed against reversal of conviction

order passed by Appellate Court for offences punishable

under Section 323, 324, 326 and 504 read with Section 34 of Indian Penal Code (hereinafter referred to as IPC).

3. The factual matrix of case of prosecution before

the Trial Court is that on 01.03.2005 at about 9:30 a.m., in Mahatma Gandhi Government College Kunigal (a counting center for Grama Panchayath Election for Chottanahalli and other Grama Panchayat) premises the accused persons by

sharing common intention have abused P.W.1 in a filthy language and assaulted the P.W.1 and P.W.2 with their hands and accused No.1 has voluntarily assaulted P.W.2 with a stone on his shoulder and accused No.1 voluntarily hit a blow to P.W.1 with a stone on his head and caused nasal bone fracture. Based on the statement of P.W.1, case is registered and investigated the matter and filed the charge sheet against accused No.1 to 3. The accused were secured and they did not plead guilty and hence, they claimed trial and prosecution examined P.W.1 to P.W.14 and also got marked Ex.P.1 to Ex.P.11(b). Accused have not lead any evidence and accused persons were subjected to 313 statement and incriminating circumstances were denied and only portion of Ex.D.1 was marked confronting the

same to the prosecution witness and no material objects are marked on behalf of the prosecution. The Trial

Court having considered the evidence of witnesses, answered all the points as affirmative in coming to the

conclusion that prosecution has proved the case against the

accused persons and convicted and sentenced the accused No.1 to 3.

4. Being aggrieved by the judgment of conviction

and sentence by the Trial Court, the accused persons have preferred an appeal in Crl.A.No.45/2018 and injured P.W.1 has also filed an appeal in Crl.A.No.51/2018 questioning the sentence imposed by the Trial Court was less is not commensurate with the offence and both the appeals were heard and disposed of by the First Appellate Court. The First Appellate Court allowed the appeal filed by the accused persons and acquitted the accused persons by setting aside the judgment of conviction and sentence of the Trial Court and consequently, the appeal filed by the injured victim is dismissed.

5. Being aggrieved by the acquittal, the present appeal is filed by the complainant P.W.1. The main contention of the counsel who appears on behalf of the

appellant that accused No.1 took out the chopper and assaulted the P.W.1. The accused Nos.2 and 3 are the sons of the MLA. The P.W.1 suffered injury of fracture of nasal bone. The counsel would submits that the incident was taken place at 9:30 a.m., and even Police were also present in the counting center and several other persons were also gathered and witnessed the incident. The counsel would submits that P.W.9 is the Doctor who has examined the injured i.e., P.W.1 and P.W.2 and issued the wound certificate Ex.P.6 and Ex.P.7. It is also the case of the injured that he also took the treatment at Victoria Hospital. The prosecution mainly relies upon the evidence of P.W.1 to P.W.5 and also the evidence of the Doctor-PW9 and other Doctors who treated the injured.

6. The witness P.W.3 is also an eye witness and

P.W.1 and P.W.2 have suffered the injuries and P.W.3 is brother of P.W.1 and P.W.2. The P.W.4 and P.W.5 are independent witnesses, but not supported the case of

prosecution. The documentary evidence is very clear that P.W.1 had suffered the fracture of nasal bone and Ex.P.1 is the complaint wherein specifically made the statement in the Hospital when the Police went and recorded the statement. The counsel would submits that P.W.1 was hospitalized for one day and P.W.2 took treatment as an outpatient. The witness was examined after 8 years and there were minor discrepancies in the evidence of P.W.1 to P.W.3 and the First Appellate Court magnified the minor discrepancies and acquitted the accused persons and the very approach of Appellate Court is erroneous. The Trial Court rightly answered all the points for consideration considering both oral and documentary evidence and while reversing the same by the First Appellate Court, not considered the evidence in a proper perspective. It is the evidence of P.W.1 that incident was taken place in a counting place and each accused role has been attributed by the P.W.1 in his evidence. The counsel would submits

that ofcourse corroboration by independent witnesses is an indispensable tool in cases where the prosecution is primarily based on the evidence of seemingly interested witnesses. The P.W.1 has deposed about the injuries caused to him by the accused persons. He has stated the same before the SHO, duty Doctor and also before the Victoria Hospital and P.W.2 also deposed in corroboration to his evidence particularly about the nature of injuries and who is responsible for those injuries and fails to take note of all these factors. Even though Trial Court considered the nature of injuries of fracture and also the evidence of P.W.1 to P.W.3 is consistent and hence, it requires interference in setting aside the order of the Appellate Court and confirmed the judgment of the Trial Court and also imposed adequate sentence by allowing the appeal filed by the victim.

7. Per contra, the counsel appearing for the respondents would vehemently contend that the very genesis of the case is doubtful and the same is taken note

of by the First Appellate Court and though Trial Court committed an error and the same is properly appreciated, there are contradictions in the evidence of P.W.1

and P.W.1 says that he was assaulted under the beneath of shamiana which was put in the counting center and the evidence of P.W.13-Doctor is very clear that when he went to Victoria Hospital wherein he has stated that incident was taken place in Room No.6 and these material contradictions were taken note of by the First Appellate Court that the very place of incident is not proved. The counsel would submits that it is a case of the prosecution that P.W.1 and P.W.2 had sustained the injury, but P.W.1 went to Hospital at 9:45 and not disclosed the name of the assailants and also even P.W.2 went to Hospital at 11 O clock and he also did not disclose the name of the assailant, but P.W.1 gives history that assault was made with stone, but the evidence of P.W.1 is that accused No.1 assaulted with chopper which he brought and kept the same behind him. The counsel also

would submits that when the injured went and took the treatment even in Victoria Hospital also did not disclose the name of the assailant and hence, it is clear that it is a clear case of concoction. The counsel submits that statement was recorded by P.W.12 and even while giving the statement before the P.W.10, different version is given. Even admitted that in Ex.P.8 there is a correction in respect of place of incident. The counsel also would vehemently contend that witness categorically admits that there is a delay in registering the case and sending the same to the Court.

Though incident was taken place according to the prosecution that time it was on 01.03.2005, but FIR was reached to the Court on 02.03.2005 and the same has not been explained and the same is admitted by the witness.

8. The counsel would submits that in Ex.P.6 and

Ex.P.7 no name of assailant is mentioned. Apart from that it is the case of the prosecution that other two witnesses, P.W.3 took the injured along with other eye witnesses. But,

the wound certificate is very clear that P.W.1 and P.W.2 went on their own. The counsel submits that though witness says that he has taken the X-ray, but X-ray is not produced before the Court, but comes to the conclusion that injury is grievous

in nature and Trial Court accepted the same and committed an error in convicting the accused for the offence punishable under Section 326 of IPC. The Ex.P.3 Mahazar is dated 05.04.2005 and the same was drawn after 1 month 4 days and no explanation of spot inspection in conducting the same after 1 month 4 days and hence, taking into note of all these contradictions and material evidence available on record, First Appellate Court rightly comes to the conclusion that Trial Court committed an error and it requires interference and there is no any consistency in the evidence of P.W.1 to P.W.3 and rightly acquitted the

accused persons and hence, it does not require interference.

9. In reply to this argument, the learned counsel

for the appellant would submits that the First Appellate Court magnified the minor discrepancies and the same will not go into the very root of the case of prosecution. The counsel would submits that the statement of P.W.1 came to be recorded by Head constable-P.W.10 in the Hospital and thereafter case was registered and the evidence of P.W.1 is consistent and categorically says that accused No.1 took out chopper from his back side and assaulted on the head and the same was snatched by the eye witnesses. The counsel submits that evidence of P.W.1 to P.W.3 is consistent and corroborated by medical evidence of P.W.9, P.W.13 and P.W.14 and he had suffered fracture.

10. The counsel in support of his argument relies upon the judgment reported in (2016) Supreme Court cases 316 in case of Ramvilas V/s State of Madhya Pradesh wherein held that the evidence of injured witnesses is entitled to great weight and very cogent and convincing grounds are required to discard the evidence of injured witnesses.

11. The counsel also relies upon the judgment

reported in (1975) 3 Supreme Court Cases 311, in case of Malkhan Singh and another V/s State of Uttar Pradesh and the counsel referring this judgment would contend that it is difficult to believe that injured person would spare his real assailants and falsely involve another person as responsible for causing injury.

12. The counsel also relies upon the judgment

reported in (2011) 6 SCC 288 in case of Brahm Swaroop and Another V/s State of Uttar Pradesh wherein also it is held that very witness to the occurrence has himself been injured in the incident. The testimony of such witnesses is generally considered to be very reliable as that it comes with an inbuilt guarantee of his presence at the scene of crime and is likely to spare his actual assailant and falsely implicate someone.

13. Per contra, the counsel appearing for the

accused relies upon the judgment reported in (2021) 13 Supreme Court Cases 716 in case of Jaikam Khan V/s State of Uttar Pradesh and counsel would vehemently contend that when the related witnesses falling in the category of neither wholly reliable nor wholly unreliable in such cases, corroboratory evidence is necessary, absence of

corroboratory evidence, motive and other material infirmities in prosecution case considering said infirmities, conviction is not sustainable.

14. Having heard the learned counsel for the

appellant and also the learned counsel for the respondents and also considering the principles laid down in the judgments referred supra by both the counsel and this Court has to analyze both oral and documentary evidence available on record since there is a divergent finding and at the first instance, Trial Court convicted and the same is reversed by the First Appellate Court and whether such

reversal is erroneous and conviction by the Trial Court is based on the material has to be re-analyzed by this Court. Having re-analyzed both oral and documentary evidence available on record, the point that would arise for our consideration are:

1) Whether the First Appellate Court committed an error in dismissing the appeal filed by the appellant questioning the inadequate sentence? 2)

Whether the Appellate Court committed an error in allowing the appeal filed by the accused persons in acquitting them and whether it requires interference of this Court both on the sentence by the Trial Court as well as reversal finding by the Appellate Court ? 3) What Order ?

15. We have perused both oral and documentary evidence and also given conscious approach with regard to the material available on record i.e., oral and documentary

evidence. No doubt it is a case of prosecution that incident was taken place in a counting center in connection with elections are held. This Court has to take note of the contents of the complaint Ex.P.1 and genesis of the complaint. Having perused Ex.P.1, it is clear that statement was made by the injured P.W.1 in the Hospital and he specifically mentioned in the statement which was recorded by P.W.10. He says that accused No.1 to 3 started quarreling with him and scolded that he did not enter the politics and abused in a filthy language and when they came to assault him, he ran from that place and they chased him and he was held near the place where shamiyan was put and accused No.1 inflicted injury with the chopper which was kept in his back side on his head and also assaulted on his ear with the chair and caused injuries to body and hence he had sustained bleeding injury. When his brother C.H.Shankar was along with him, he was assaulted by all the three accused persons with their hands and the

same was witnessed by Anandaswami and his another brother Shivakumar and others pacified the galata and with the help of his brothers ad also the Police, he went to Hospital in an Auto rickshaw and he was brought by Jagadeesh and hence, requested the Police to take action.

16. It is also important to note that the evidence

available before the Court that P.W.1 deposed before the Court that on the date of incident, he says accused No.2 scolded him not to enter politics and threatened that he would take away the life and after sometime, accused No.3 when he was sitting in the counting center, made galata. The accused No.1 - Krishnakumar once again threatened not to enter into politics and caused life threat and

immediately he took out the chopper and kept behind his neck and assaulted with the same on his head. It is also his evidence that all of them assaulted with iron chair on his head and nose, as a result, his nose was opened and this incident was witnessed by thousands of people gathered.

The Police who were there at the spot also helped him and PSI- Balegowda instructed him to go to Hospital and also secured an Auto rickshaw by himself and in the very same Auto rickshaw, he himself and injured P.W.2, P.W.3-

Shivakumar, Ramaswamigowda went to Hospital and thereafter Shivaraj also came to Hospital, but his evidence is that accused called the Doctor and told not to give any treatment to him, thereafter, he went to Victoria Hospital and also he took treatment in the house itself for a period of 15 days securing the Doctor and also he has given the certificate issued by the Victoria Hospital and he gave the statement before the Police in terms of Ex.P.1.

17. Having considered the evidence of P.W.1 in chief

examination and in Ex.P.1, statement made by him before the Police. He says that when they have chased him, he was held near the shamiyana and accused No.1 assaulted with chopper which was kept behind his back on his head and also fisted with the chair near the eye and also all over

the body. When his brother came to rescue him, all of them assaulted him with their hands and this incident was pacified by the witnesses who are present in the spot, but in his oral evidence, he says that there was a threat by accused No.2 that not to enter the politics and caused life threat and thereafter, the accused No.3 when he was sitting in the counting room, made galata suddenly and accused No.1 also reiterated about not to come to politics and suddenly he removed the machete which was kept behind his back and assaulted with the same on his head and all the three persons taken the chair and also assaulted on his head and nose, as a result, his nose was injured, but the same is not stated in Ex.P.1 and Ex.P.1 says that he assaulted only with chopper, not with the iron chair and the same was witnessed, but there is an improvement in the evidence of P.W.1. It has to be noted that in Ex.P.1, he categorically says that assault was made with machete,

but when the injured went to the Hospital, he makes the

statement with the Doctor that he was assaulted with stone, not with the machete. But only during the course of cross-examination, he says that he was assaulted with machete, as a result, he had sustained bleeding injuries. In respect of place of incident mentioned in Ex.P.1 and in his oral evidence, there is a mismatch and both are different. Apart from that the evidence of P.W.13-Doctor is also clear that with regard to the place of incident is concerned, P.W.13 Doctor says that when he was sitting in Room No.6, an assault was taken place and the history was given before the P.W.13 that in Room No.6 incident was taken place, but with regard to the place of incident, averments in the complaint and oral evidence is contrary that to the statement made with the Doctor P.W.13 and history is different from the evidence. Having taken note of the evidence of P.W.9 - Doctor, in his evidence, he says that the P.W.1 came and given intimation that he was assaulted with stone, but the same is not spoken by P.W.1 during his

chief evidence and though P.W.9 says that he was referred to the Victoria Hospital, but no document is placed.

18. It is also important to note that Ex.P.6-wound

certificate discloses that he came alone and not accompanied with any of the witnesses. It is also important to note that in the cross examination of P.W.1, he categorically admits that where the incident was taken place, Police bandobast was also there and thousands of people were there, but none of the independent witnesses have supported the case of P.W.1. In the cross examination he says that incident was taken place near the shamiyana, but not in Room No.6 or when he was sitting in the counting room. It is also important to note that in Ex.P.1, he says that all of them have assaulted his brother with their hands, not with any of the weapon and also his evidence that he has given the blood stained cloth to the Police, but no such material object is produced before the

Court. Even none of the weapons are seized. He categorically says that in his further statement, he did not make any statement that accused No.1 assaulted him with stone on his head and also on nose, but history given that he was assaulted

with stone when the counsel for accused No.1 was cross examined him. When the counsel for

accused No.2 and 3 was cross examined him, he categorically admits that there are 4 cases against him, but he claims that false cases are registered against him. He also admits that he did not make any statement with the Police that they used plastic chair to assault him and also he was having conscious, but he says in further chief that accused No.1 to 3 abused in a filthy language and assaulted with chair, but both of them informed the Police that they assaulted with chair and the same was noted by the Doctor, but Doctor evidence is very clear that P.W.9 says that assaulted with stone and not with any chair or even any machete.

19. The other witness according to the prosecution P.W.2 who was also very much present and he says that accused has chased his brother P.W.1 and accused No.1 assaulted with machete and his friends snatched the

machete from him and hence, accused No.1 also immediately took the iron chair and assaulted on the face and forehead. When he tried to pacify the incident, all the accused persons assaulted with the chair and torn his cloth and this is also an improvement in the evidence of P.W.2. The P.W.1 says that assaulted him with their hands, but he claims that assaulted with the chair and also stated that accused No.1 took up the stone and assaulted with the stone and the same was snatched by C.W.3 and thrown the same. The C.W.3 and his friends took the injured to the hospital, but P.W.1 says that both of them went together to the Hospital. He also says that he took treatment at PHC,

Kunigal and then went to Victoria Hospital, but no document of Victoria hospital is placed before the Court.

However, in the cross-examination he also admits that before leaving inside the counting center, Police used to check them and hence, question of taking the machete by the accused No.1 is doubtful and also those who are having pass only allowed inside and the very presence of the Police is not in dispute at the spot. But, he claims that accused No.1 assaulted with machete in front portion and also assaulted with chair and the machete. The Police also seized his cloth, but no

such cloth before the Court and also says that he had sustained injuries on the shoulder, but he says that when he tried to pacify the scuffle, took out the plastic chair and assaulted her, but P.W.1 says that assaulted with iron chair and P.W.2 says that assaulted with plastic chair. The P.W.1 in his complaint says that they assaulted with their hands not with any weapon on the P.W.2.

20. The other witness is P.W.3 who is also the brother of P.W.1 and in his evidence he says accused No.1

with machete, chair and stone assaulted P.W.1 and accused No.1 to 3 with the stone and plastic chair assaulted him and also the P.W.2, but no wound certificate in respect of this witness that he was subjected to assault. In the cross examination, he also admits that there was a restriction to enter the counting center and Police were also sitting near the shamiyana and there were also other people, but he says P.W.1 cloth was stained with blood, but he cannot say whether blood was on the ground.

21. Having considered these evidence of P.W.1 to

P.W.3, the very presence of P.W.2 at the spot is doubtful and though says that P.W.1 was taken to the hospital immediately and P.W.1 evidence is contrary. The wound certificate discloses that P.W.2 went to Hospital at 11:00 a.m., but P.W.1 went to hospital at 9:45 a.m., and the wound certificate Ex.P.6 is very clear that he went alone and also Ex.P.7 - wound certificate is very clear that he went alone that is not accompanied with anyone to the

hospital and timings are also different, if both of them have injured and both of them would have rushed to the hospital at the same time, but P.W.1 went to hospital at 9:45 a.m., and P.W.2 went to hospital at 11.00 a.m. and also the Ex.P.10 issued by the Doctor at Victoria Hospital wherein he says that P.W.1 went to Hospital at 11.40 a.m., alone and none of the witnesses mentioned the name of the accused persons that they have assaulted and except stating that he was assaulted by stone, P.W.1 not stated anything about the name of the assailants and even when P.W.1 went to the Victoria Hospital, there also he did not disclose the same. The document Ex.P.10 says that X-ray was taken and X-ray shows the

fracture of nasal bone and wound is grievous in nature and in order to prove the same, X-ray is not placed before the Court, except deposing before the Court that he has sustained the fracture and based on

clinical examination, Court cannot come to such a

conclusion and there must be an X-ray, in the absence of

document of X-ray, it cannot be decided that there was a fracture.

22. The P.W.13 is another Doctor. In his evidence,

he deposed that Room No.6 is the place of incident as history is given by injured, but he says that he took the treatment before coming to him at Nimhans and with regard to the history of assailants, no material is placed before the Court and there was no any difficulty to produce the same, but he says that it will be in the MLC, not in the wound certificate, but even he has not produced any MLC

register to show that these accused persons have assaulted. The witness P.W.13 says that second type of injury could be caused if any person falls on the hard surface and rolls down.

23. The other witness is P.W.14. He says that first

P.W.1 took the treatment at Kunigal Hospital, then he examined him, he found two injuries, but he says that he has given the certificate in terms of Ex.P.10, but not

produced the X-ray, though he claims that the X-ray was taken. In Ex.P.10 he did not mention the age of the injury and also he did not mention from which hospital he came and also he admits that if any person falls on the hard surface facing towards the ground if any sharp edged object came in contact with the same there is a chances of sustaining the injury which is mentioned in Ex.P.10. He also admits that while mentioning in the wound certificate, he did not even mention the weapon which was used for assaulting him. The evidence of P.W.2 is also contrary to his own statement as per Ex.P.2. The P.W.2 in his evidence before the Court says that accused No.1 suddenly took out the stone which was lying on the spot and

assaulted on his head and nose. He also says that the accused No.2 took out the plastic chair and assaulted the P.W.1, but P.W.1 did not say anything about the same, but says that accused No.3 Jagdeesh fisted him with hands, but there are discrepancies that too a major discrepancies with regard to using of the

same and overt act. The P.W.1 says that assault with machete, but P.W.2 in his statement in terms of Ex.P.2 assault with stone, but P.W.1 says that assault was made to P.W.2 with the hands by accused No.1 to 3, but P.W.2 in his statement says that he was assaulted with chair. All these contradictions were taken note of by the Appellate Court while considering the material on record and none of the

independent witnesses have supported the case of prosecution except the interested witnesses P.W.1 to P.W.3 and they are brothers. The incident according to the prosecution was taken place in the election counting center and public were there and only P.W.10 while recording the statement, he says that he has received the information and then he went to record the statement, but P.W.1 says that Inspector-Balegowda was very much present at the spot and he only secured the Auto rickshaw and sent him to hospital to take the treatment, but that is not the evidence of the I.O who conducted the investigation that he was very

much present that is P.W.12. The evidence which was given by P.W.1 to P.W.3 not matches with particularly with regard to the place of incident, there are contradictions and also with regard to the using of weapon for assault also there are contradictions and even in respect of overt act in respect of P.W.1 and P.W.2 is also different. Even if P.W.1 and P.W.2 were present at the time of the incident and sustained injury, both would have gone to the Hospital together and took the treatment. I have already pointed out that wound certificate discloses different timings of P.W.1 and P.W.2 and with regard to weapon used, P.W.1 says that it was stone as per the wound certificate, but in the evidence he says that it was machete. It is also clear that while giving permission to enter the counting center, the Police who are deployed at the spot, they make the checking and also those who are having pass only allowed to the center. When such contradictions are found, the same is evaluated by the Appellate Court that there are

material contradictions and not inspires the confidence of the Court with regard to incident is concerned as well as assault made with the particular weapon and also the bloodstained clothes were also not seized and even weapon was also not seized either the chair or machete. There is a clear improvement in the evidence of each witnesses. It has to be noted that according to the prosecution, incident was taken place on 01.03.2005 and in terms of Ex.P.3- Mahazar which was drawn on 05.04.2005 that too after lapse of almost 1 month 4 days. Having taken note of all these material contradictions, we do not find any error on the part of the Appellate Court in reversing the judgment of the Trial Court. All these material contradictions were not taken note of by the Trial Court while convicting the accused. When the evidence of P.W.1 to P.W.3 who are the star witnesses of the prosecution was not reliable and not trustworthy and

hence, rightly accepted the contention of the appellant/accused before the Appellate Court and set aside the judgment of the Trial Court and consequently dismissed the appeal filed by the appellant/victim for enhancement of sentence is concerned. Hence, no ground is made out to set aside the judgment of the Appellate Court in dismissing the appeal filed by the victim and allowing the appeal filed by the accused persons. Hence, we answer the points accordingly.

24. In view of the discussions made above, we pass the following:

ORDER

The Criminal Appeal is dismissed. If any Bond is executed and the same are cancelled. Sd/- (H.P. SANDESH) JUDGE Sd/- (VENKATESH NAIK T) JUDGE RHS

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