

Manju vs the State of Karnataka

Manju vs the State of Karnataka

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Court : Karnataka

Decided On : Apr-22-2026

Judge : V Srishananda

Appeal No. : CRL.RP/1095/2018

Appellant : MANJU

Respondent : The State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026 BEFORE THE HON'BLE
MR. JUSTICE V SRISHANANDA CRIMINAL REVISION PETITION NO.
1095 OF 2018 (397(Cr.PC) / 438(BNSS)) BETWEEN:

1. MANJU S/O DOLLAIAH AGED ABOUT 26 YEARS

2. DOLLAIAH S/O LATE GOOLI CHANNAIAH AGED ABOUT 54
YEARS,

3. SHIVANANJAMMA W/O DOLLAIAH AGED ABOUT 46 YEARS, ALL ARE R/OF GUDIGENAHALLI VILLAGE KERAGODU HOBLI, MANDYA TALUK AND DISTRICT-571401. Digitally PETITIONERS signed by R MANJUNATHA (BY SRI. K L SREENIVAS, ADVOCATE) Location: HIGH COURT AND: OF KARNATAKA

THE STATE OF KARNATAKA BY KERAGODU POLICE STATION KERAGODU, MANDYA TALUK AND DISTRICT-571401. RESPONDENT (BY SRI. K.NAGESHWARAPPA, HCGP) THIS CRL.RP IS FILED U/S.397(1) R/W 401 CR.P.C. PRAYING TO ALLOW THIS REVISION, AND SET ASIDE THE -2-

JUDGMENT PASSED BY THE HON'BLE PRINCIPAL SESSIONS

JUDGE, MANDYA, IN CRL.A.No.10/2015 ON 31.05.2018 DISMISSING THE APPEAL, AND ALSO THE JUDGMENT OF CONVICTION AND SENTENCE PASSED BY THE HON'BLE II ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, MANDYA IN C.C.No.122/2011 ON 12.01.2015 AND THEREBY ACQUIT THE PETITIONERS FOR THE OFFENCE P/U/S 341, 504, 323, 324, 326, 506 R/W 34 OF IPC.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri K.L. Srinivas, learned counsel for the revision petitioners and Sri K. Nageshwarappa, learned High Court Government Pleader for the respondent/State.

2. Revision petitioners are the accused persons who

have been convicted and sentenced to undergo simple imprisonment for the offences punishable under Section 504, 341, 323, 326 and 506 of Indian Penal Code and sentenced as under:

Sections	Sentence	Fine	Default sentences5
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-3-

323 r/w	-	Rs.500/-	Simple impriso
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imprisonment

506 r/w	-	Rs.500/-	Simple impriso
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the pendency of this revision petition and as such, case against him stood abated. Accused No.2 said to have died during the pendency of the criminal case itself. Therefore, present revision petition is restricted to revision petitioner Nos.1 and 3/accused No.1 and 4.

4. Order of conviction and sentence was challenged before the First Appellate Court in Crl.A.No.10/2015.

5. Learned Judge in the First Appellate Court, after securing the records, heard the arguments of the parties and on re-appreciation of the material evidence on record, dismissed the appeal by considered judgment dated 31.05.2018. Thereafter accused No.1, 3 and 4 filed the present revision petition.

6. As pointed out, petitioner No.2/accused No.3 died during pendency of the revision petition and therefore revision petition is considered insofar as accused No.1 and 4. -4-

7. At the outset, Sri K.L. Srinivas, learned counsel for

the revision petitioner would submit that the incident has occurred at the spur of the moment and therefore, conviction of the accused persons for the offence under Section 326 of Indian Penal Code is totally uncalled for, especially when there is an order of acquittal recorded by the learned Trial Magistrate for the offence punishable under Section 324 of Indian Penal Code against which State has failed to file any appeal and thus, sought for allowing the revision.

8. Alternatively, Sri K.L. Srinivas would contend that in

the event of upholding the order of conviction, in the absence of material evidence to attract the offence under Section 326 of Indian Penal Code, the same shall be scaled down to offence under Section 324 of Indian Penal Code by exercising the revisional powers and set aside the sentence of imprisonment by directing the payment of enhanced fine amount which can be paid as compensation to the dependents of injured/PW1 (Boralingaiah-as he is no more) and sought for allowing the revision petition.

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9. Per contra, Sri K. Nageshwarappa, learned High Court Government Pleader opposes the revision grounds in toto.

10. He would further contend that the incident has occurred on account of previous enmity and there is a grievous injury noted in the wound certificate marked at Ex.P.3 and its author has been examined as P.W.4. Therefore, revision petition is to be dismissed.

11. Learned High Court Government Pleader also

opposes the alternate submission of the petitioner by contending that no lenience can be shown to people like petitioners, as it would send a wrong message to the society and sought for dismissal of the revision.

12. Having heard the arguments of both sides, this Court perused the material on record meticulously.

13. On such perusal of the material on record, Ex.P.3 wound certificate is not supported by the X-ray certificate or the radiological report.

14. To determine injury as a grievous injury, especially when it is a fracture injury, it is for the prosecution to place on record the original X-ray certificate or at least the radiological -6- report to establish the injury of fracture. If the prosecution fails to do so, then the benefit should be appropriated to the accused.

15. View of this Court in this regard is fortified by the

judgment of Division Bench of this Court in the case of State v.

Sheenappa Gowda and others reported in 2010 SCC Online KAR 5294. The relevant paragraph of the said decision is culled out hereunder for ready reference:

18. Therefore, the question for determination is limited to find out whether the said injury No. 2 is proved to be a grievous injury sustained by PW. 4. It is well settled that in criminal cases, the burden of proving the guilt of the accused is always on the prosecution and that burden would not shift unless there is a presumption or defence as enumerated in the Penal Code, 1860 is taken by the accused. In this case, the defence taken by the accused is one of denial. It is clear from the evidence of PW. 1 that he has given description of injury on physical examination of PW. 4 and has come to the conclusion that there was fracture of the middle phalanx. It is well settled that when the prosecution alleges that grievous injury has -7-

been caused, it is necessary for the prosecution to prove the same beyond reasonable doubt. The evidence of PW.1. would only show that there was injury as described in the wound certificate - Ex.P2. When PW. 1 suspected such fracture, he ought to have referred the injured - PW. 4 for taking X-ray to confirm his finding that there is fracture of middle phalanx. It is now well settled hat unless the prosecution produces the X-ray for confirmation of fracture opined by the Doctor on medical examination clinically it cannot be said that the accused have caused grievous injury of fracture. It is true that in the cross-examination of PW. 1, the learned Counsel appearing for the accused has not disputed the nature of injuries spoken to by PW.1. However, he same would not dispense with the production the X-ray by the prosecution to prove beyond reasonable doubt that the injured had sustained fracture of middle phalanx, which is an opinion given by PW. 1 Doctor only on clinical examination of PW. 4, the injured. Therefore, it is clear that the

finding of the learned Sessions Judge holding that the prosecution has failed to prove that the accused Nos. 1 to 3 and 5 have committed the offence punishable under Section 326 of I.P.C. and the offence committed by them -8-

falls within the ambit of Section 324 of I.P.C. is justified.

16. Thus, the learned Trial Magistrate committed an

error in convicting the accused for the offence under Section 326 of Indian Penal Code, which has been not properly appreciated by the learned judge in the First Appellate Court in correcting the said error.

17. Since it is a patent factual error, this Court by exercising the revisional jurisdiction is bound to consider the same and scale down the offence punishable under Section 326 to 324 of Indian Penal Code, following the dictum of Sheenappa Gowda supra.

18. Having said thus, overwhelming material evidence

placed on record inasmuch as injured has been examined, so also the author of Ex.P3, PW4 - Dr. Puttalingegowda has been examined before the Court, which would establish not only the incident, but also the injuries sustained by PW1 - Boralingaiah. The motive is also established by the prosecution as there was a previous land dispute and whereby parties were on loggerheads nurturing the enmity. -9-

19. Therefore, having regard to the limited scope of

revisional jurisdiction, this Court cannot revisit into those factual aspects of the matter in upsetting the finding recorded by the learned Trial Magistrate, confirmed by the First Appellate Court for the remaining evidence.

20. Hence the petitioners are entitled for an order of

acquittal for the offence under Section 326 of Indian Penal Code and they should be convicted for the offence under Section 324 of Indian Penal Code apart from

other offences.

21. In view of the same, consequently the sentence

ordered by the learned Trial Magistrate, confirmed by the First Appellate Court also needs modification in view of the fact that there is no compulsory imprisonment as is contemplated for the remaining offences including the offence under Section 324 of Indian Penal Code.

22. Accordingly, taking note of the fact that the

petitioners are first time offenders and third petitioner being a lady, this Court is of the considered opinion that if the sentence ordered by the learned Trial Magistrate, confirmed by the First Appellate Court is modified by directing the petitioners to undergo simple imprisonment for the day till raising of the - 10 - Court and to pay enhanced fine amount of Rs.50,000/- each, ends of justice would be met.

23. Portion of the fine amount can be paid as compensation to the dependents of PW1 under due identification would better serve the ends of justice.

24. Accordingly, the following:

ORDER

(i) Revision petition is allowed in part.

(ii) Revision petitioners are acquitted for the offence

under Section 326 of Indian Penal Code, instead, they are convicted for the offence under Section 324 of Indian Penal Code apart from maintaining their conviction for the other offences.

(iii) Further, since this Court has recorded an order

of acquittal for the offence punishable under Section 326 of Indian Penal Code, in modification of the sentence ordered by the learned Trial Magistrate, confirmed by the First Appellate Court, petitioners are directed to undergo simple imprisonment

for the day till the raising of the - 11 - Court and ordered to pay enhanced fine amount of Rs.50,000/- each by first petitioner and third petitioner respectively on or before 20.05.2026.

(iv) On receipt of the fine amount, sum of Rs.80,000/- is ordered to be paid as compensation to the dependents of PW1- Boralingaiah under due identification.

(v) Failure to pay the enhanced fine amount, petitioners shall undergo imprisonment for a period of six months.

(vi) Office is directed to return the Trial Court Records for issue of modified conviction warrant. Sd/- (V SRISHANANDA) JUDGE MR List No.: 2 SI No.: 76

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