

Ram Das vs State of Karnataka

Ram Das vs State of Karnataka

SooperKanoon Citation : sooperkanoon.com/1642977

Court : Karnataka

Decided On : Apr-29-2025

Judge : Rajesh Rai K

Appeal No. : CRL.RP/15/2021

Appellant : Ram Das

Respondent : State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2025 BEFORE THE HON'BLE
MR JUSTICE RAJESH RAI K CRIMINAL REVISION PETITION NO. 15
OF 2021 BETWEEN:

1. RAM DAS S/O VARLAKONDA NARASIMHAPPA AGED ABOUT 50
YEARS

2. D.M.MOHAN S/O MUNIYAPPA @ MUNAIAH AGED ABOUT 28
YEARS BOTH ARE RESIDING AT S. DEVAGANAHALLI SADLI HOBLI
SIDLA GHATTA ATALUK CHIKKABALLAPURA DISTRICT. PIN CODE

562 104 Digitally signed PETITIONERS by MAYAGAIAH (BY SRI. NARAYANASWAMY K.N, ADVOCATE) VINUTHA Location: HIGH COURT OF AND: KARNATAKA

STATE OF KARNATAKA DIBBURAHALLI POLICE STATION REPRESENTED BY STATE PUBLIC PROSECUTOR HIGH COURT BUILDINGS BENGALURU-560 001 RESPONDENT (BY SRI. CHANNAPPA ERAPPA, HCGP) THIS CRL.RP IS FILED U/S 397 R/W 401 OF CR.PC PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF -2- CONVICTION AND ORDER ON SENTENCE DATED 30.10.2015 PASSED IN C.C.NO.293/2007 ON THE FILE OF THE ADDITIONAL CIVIL JUDGE AND JMFC AT SIDLAGHATTA FOR THE OFFENCE P/U/S 323,325 R/W 34 OF IPC AND SET ASIDE THE JUDGMENT AND ORDER DATED 29.10.2020 PASSED IN CRL.A.NO.93/2015 ON THE FILE OF THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE CHIKKABALLAPURA SITTING AT CHINTAMANI. THIS PETITION, COMING ON FOR HEARING, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE RAJESH RAI K

ORAL ORDER

The revision petitioners-accused Nos.1 and 3 in this

revision petition have assailed the judgment passed in Crl.A.No.93/2015 dated 29.10.2020 by the II Additional District and Sessions Judge, Chikkaballapura sitting at Chinthamani (hereinafter referred to as 'the First Appellate Court') whereby the First Appellate Court dismissed the appeal and confirmed the judgment of conviction and the order of sentence passed in C.C.No.293/2007 dated 30.10.2015 by the Additional Civil Judge and JMFC, Shidlaghatta (hereinafter referred to as 'the Trial Court').

2. Parties are referred to as per their ranking before the Trial Court. -3-

3. The abridged facts of the prosecution case are that: On 14.10.2007, the revision petitioners/accused Nos.1

and 2 along with accused No.2 were cutting jali trees/babul trees in a place situated half a kilometer away from Harijana colony of S.Devaganahalli. At that time, the complainant-PW.1 made an attempt to prevent them. Enraged by the same, accused Nos.1 and 3 i.e., the petitioners herein caught hold him and accused No.2 assaulted him with a stone on his mouth causing bleeding injuries to his lower lip. Owing to the same the complainant-PW.1 fell on the ground and sustained injuries both on his lip and tooth. Later, he was shifted to the hospital and lodged a complaint on 14.10.2007 as per Ex.P1 before the Dibburahalli Police Station. On the strength of Ex.P1, the said police registered a case in crime No.57/2007 against the accused Nos.1 to 3 for the offences punishable under Sections

323 and 324 r/w Section 34 of IPC as per Ex.P5. Subsequently, PW.7-PSI of the said police investigated the case and laid a charge sheet against the accused/petitioners for the aforementioned offences. -4-

4. In order to prove the charges levelled against the

accused, before the Trial Court, the prosecution examined in total 7 witnesses as PWs.1 to 7 and got marked 5 documents as Exs.P1 to 5 as well as one material object as MO.1.

5. During the course of trial, accused No.2 has expired and case against him abated.

6. On assessment of oral and documentary evidence,

the learned Magistrate convicted accused Nos.1 and 3 for the offences punishable under Sections 323 and 325 r/w Section 34 of IPC and sentenced them to undergo simple imprisonment for a period of three months each and also directed to pay a fine of Rs.1,000/- each, in default of payment of fine amount, directed to undergo

further simple imprisonment for 15 days each for the offence punishable under Section 323 of IPC. Further, sentenced them to undergo simple imprisonment for a period of six months each and also directed to pay a fine of Rs.2,000/- each, in default of payment of fine amount, the accused shall undergo further simple imprisonment for a period of one month each for the offence punishable under Section 325 of IPC.

-5- Further directed to pay a sum of Rs.3,000/- as compensation to the complainant under Section 357 of Cr.P.C.

7. Being aggrieved by the said judgment of conviction

and the order of sentence, the accused filed a criminal appeal before the First Appellate Court in Criminal Appeal No.93/2015. The First Appellate Court on reassessing the evidence on record dismissed the appeal filed by the accused/petitioners by confirming the judgment of conviction and the order of sentence passed by the Trial Court. Challenge to the same is lis before this Court.

8. I have heard the learned counsel, Sri. Narayanaswamy K.N., learned counsel for the revision petitioners and Sri Channappa Erappa, learned HCGP for the respondent.

9. The primary contention of the learned counsel for

the revision petitioners is that both the trial Court and the First Appellate Court have grossly erred in convicting and sentencing the accused by not appreciating the evidence and materials on record in right perspective. He further contended that the complaint-Ex.P1 and the evidence of PW.1-the injured and -6-

PW.2-eyewitness categorically established before the trial Court that there is no involvement of the petitioners herein i.e., accused Nos.1 and 3 in the incident. On the other hand accused No.2 assaulted the victim with a stone and caused the grievous injuries to him. The overt act alleged against these petitioners that they caught hold the victim and facilitated accused No.2 to assault him. The said aspect is not properly deposed by PW.1 in his evidence. In such circumstances, the conviction of the petitioners/accused for the offence punishable under Section 325

of IPC is not sustainable. Accordingly, he prays to allow the revision petition.

10. Refuting the above submissions, the learned High Court Government Pleader for the respondent contended that

both the Trial Court and the First Appellate Court on meticulously examining the evidence available on record, passed well reasoned judgments, which do not call for interference by this Court. He further contended that the evidence of PW.1 and PW.2 i.e., the injured and the eyewitness, establishes the aspect that these petitioners along with accused No.2 have assaulted PW.1 on his lower lip and tooth. Further the evidence of PW.1 and PW.2 corroborates to -7- the medical testimony of doctor-PW.4 and the wound certificate-Ex.P4. Hence, both the trial Court and the first Appellate Court rightly convicted the accused for the aforementioned offences. Accordingly, he prays to dismiss the revision petition.

11. Having heard the learned counsel for the respective parties, the sole point that would arise for my consideration is: "Whether the First Appellate Court is justified in dismissing the appeal filed by the accused Nos.1 and 3 by confirming the

judgment of conviction and order of sentence

passed by the trial Court for the offences punishable under Sections 323 and 325 r/w Section 34 of IPC?"

12. I have given my anxious consideration on the arguments advanced by the learned counsel for the respective parties and also carefully perused the entire materials on record placed before me.

13. As could be gathered from the records, Ex.P1-

complaint lodged by PW.1- the injured immediately after the incident, depicts that accused Nos.1 and 3 caught hold him at the time of incident and accused No.2- Muniyappa @ Munaiah -8-

assaulted with the stone-MO.1 on his mouth and thereby caused grievous injuries to him. Further, on perusal of the evidence of PW.1, he reiterated the contents of

Ex.P1 that accused No.2 alone assaulted him with the stone and the accused Nos.1 and 3 caught hold him. The evidence of PW.2- the eyewitness i.e., none other than the wife of PW.1 also fortifies that accused No.2 alone assaulted PW.1. No doubt, PW.1 has sustained grievous injuries and PW.4-Doctor deposed

to that effect and placed the wound certificate-Ex.P4. Nevertheless, on perusal of the evidence of PW.1 and PW.2 and Ex.P1-complaint, the prosecution successfully established that the accused No.2 alone caused injuries to PW.1 and these petitioners were present and caught hold PW.1. There is no such evidence placed by the prosecution to establish that these petitioners had common intention to cause the grievous injuries to PW.1. Hence, the conviction against these petitioners for the offence punishable under Section 325 of IPC is liable to be set aside. However the act of these petitioners attributes the offence under Section 323 of IPC. Further the sentence imposed by the trial Court for the offence under Section 323 of IPC i.e. three months simple imprisonment along with fine of

-9- Rs.1,000/- each is appears to be acute in the fact and

circumstance of the case and the evidence on record. Nevertheless the petitioners are not bail ever since from the year 2007 i.e. from last 18 years. In such circumstance, instead of sending them judicial custody, sentencing them by imposing the fine amount would meet the ends of justice. Against this backdrop the revision filed by the petitioners partly succeeds.

14. Accordingly, I answer the point raised above as partly affirmative and proceed to pass the following:

ORDER

i) Criminal revision petition is allowed in part. ii) The judgment of conviction passed by the Additional Civil Judge and JMFC, Shidlaghatta in C.C.No.293/2007 dated 30.10.2015 which was confirmed by the First Appellate Court in CrI.A.No.93/2015 for the offence punishable under Section 323 of IPC is hereby confirmed. However, the sentence imposed for the said offence is hereby modified and the petitioners/accused are

sentenced to pay a fine of Rs.1,000/- each, in default of payment of fine,

- 10 -

they shall undergo simple imprisonment for a period of one month. iii) The sentence imposed by the trial Court which was confirmed by the First Appellate Court for the offence punishable under Section 325 of IPC is hereby set aside. The accused/revision petitioners are acquitted for the offence punishable under Section 325 of IPC. v) The revision petitioners/accused shall deposit the entire fine amount before the learned Magistrate within four weeks' from the date of receipt of certified copy of this order. vi) If the revision petitioners/accused fails to deposit the fine amount, then the learned Magistrate is directed to secure the presence of the accused and commit them to prison to undergo default sentence.

vii) The fine amount if any deposited by the revision petitioners/accused for the offence 325 of IPC shall be refunded to the accused on due identification. viii) The bail bond executed by the revision petitioners/accused shall stand cancelled. - 11 -

ix) Registry is directed to return the Trial Court Records along with certified copy of this order to the Trial Court, forthwith. SD/- (RAJESH RAI K) JUDGE KTY List No.: 1 Sl No.: 29

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com