



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2025

BEFORE

THE HON'BLE MR JUSTICE S RACHAIAH

CRIMINAL REVISION PETITION NO. 746 OF 2017

BETWEEN:

SRI MURUGESH M.P. S/O PALANI,
AGED ABOUT 31 YEARS,
R/AT. MULLUSOGE VILLAGE,
KUSHALNAGAR, KODAGU DISTRICT-571234.

...PETITIONER

(BY SRI. SAMPATH KUMAR A. V., ADVOCATE FOR
SRI. PRATHEEP K. C., ADVOCATE)

AND:

THE STATE OF KARNATAKA
REP BY KUSHALNAGAR POLICE STATION,
KODAGU DISTRICT,
REP BY ITS, STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA,
BANGALORE-01

...RESPONDENT

(BY SRI K. NAGESHWARAPPA, HCGP)

Digitally signed
by RENUKA
Location: HIGH
COURT OF
KARNATAKA

THIS CRL.RP IS FILED U/S.397 R/W 401 CR.P.C PRAYING TO
ALLOW THE REVISION PETITION AND SET ASIDE THE JUDGMENTS
DATED 27.06.2017 PASSED BY THE I ADDITIONAL DISTRICT AND
SESSIONS JUDGE AT MEDIKERI, KODAGU IN CRL.A.NO.60/2016 AND
IN C.C.NO.1274/2014 DATED 29.09.2016 PASSED BY THE CIVIL
JUDGE AND JMFC AT KUSHALNAGAR AND ACQUIT THE PETITIONER
FOR THE OFFENCES PUNISHABLE UNDER SECTIONS 332, 353 OF
IPC.

THIS CRIMINAL REVISION PETITION HAVING BEEN HEARD
AND RESERVED ON 24.02.2025 COMING ON FOR PRONOUNCEMENT
OF ORDER, THROUGH VIDEO CONFERENCING, THIS DAY, THE
COURT MADE THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE S RACHAIAH



CAV ORDER

1. This Criminal Revision Petition is filed by the petitioner/accused being aggrieved by the judgment of conviction and order on sentence dated 29.09.2016 in C.C.No.1274/2014 on the file of the Civil Judge and J.M.F.C., Kushalnagar and its confirmation judgment and order dated 27.06.2017 in Crl.A.No.60/2016 on the file of the I Additional District and Sessions Judge, Kodagu, Madikeri, seeking to set aside the concurrent findings recorded by the Courts below.
2. The ranks of the parties in the Trial Court will be considered henceforth for convenience.

Factual matrix of the case:

3. It is the case of the prosecution that on 22.04.2016 around 8.30 p.m., when C.W.1-Smt.Veena being a woman police constable was discharging her duty as sentry in the police station, Kushalnagar, the accused came there under the influence of alcohol and questioned C.W.1 that whether Subramani of Nanjarayapatna had come to the police station or not, C.W.1 asked him to



stand properly. The accused replied by questioning her that who she was to question him. On saying that, he assaulted on her face, shoulder with his hands and dragged her by holding her uniform and caused simple injuries. Further, he deterred her from discharging her official duty. Therefore, she lodged a complaint before the respondent police. The respondent police registered a case in Cr.No.183/2014 against the accused. After completion of investigation, the charge sheet was submitted against the accused for the offences punishable under Sections 332 and 353 of IPC.

4. The prosecution, in order to prove its case, examined 10 witnesses as PWs.1 to 10 and got marked 9 documents as Exs.P1 to P9. The Trial Court recorded the conviction for the above said offenses. In an appeal, the Appellate Court confirmed the judgment of the Trial Court and dismissed the appeal. Hence, the accused has approached this Court by way of filing this revision petition.



5. Heard Sri. Sampath Kumar A.V., for Sri. Pratheep K.C. learned counsel for the petitioner/accused and Sri. K. Nageshwarappa, learned High Court Government Pleader for the respondent – State.
6. It is the submission of the learned counsel for the petitioner/accused that the concurrent findings of the Courts below in recording the conviction against the accused are contrary to the evidence on record and also opposed to the facts and law.
7. It is further submitted that P.Ws.2 to 7 have turned hostile to the case of the prosecution. The Courts below relied on the evidence of P.Ws.1, 3, 6 and 8 who are the official witnesses and also interested witnesses to the case. There is no evidence to establish that P.W.1 was discharging the official duty in the police station at the time of incident. Ex.P.5 is not proved in accordance with law. When the prosecution has failed to prove that P.W.1 was on duty on that day, recording the conviction under Section 353 of IPC cannot be sustained. In the meantime, the medical report is stated to have obtained by the



complainant has not been appreciated properly. Hence, the conviction in respect of Section 332 of IPC cannot be sustained. In spite of several contradictions and lacunae in the evidence, the Courts below have held that the accused has committed offences which is not proper and correct. Making such submissions, learned counsel for the petitioner prays to allow the revision petition.

8. *Per contra*, learned High Court Government Pleader for the respondent – State vehemently justified the concurrent findings of the Courts below and he further submitted that P.W.1 is the complainant and she is consistent in her evidence that she has been assaulted when she was on duty and after she having taken treatment, she lodges a complaint. Though some of the witnesses are the police officials, the facts remains that their evidence cannot be discarded on the ground that they are the police officials. The Courts below have rightly held that the accused had committed offences as stated supra. Therefore, the findings of the Courts below are required to be upheld. Hence, the petition deserves to be dismissed. Making such submissions, the learned High



Court Government Pleader prays to dismiss the revision petition.

9. Having heard learned counsel for the respective parties and also perused the findings of the Courts below in recording the conviction, it is appropriate to have a cursory look upon the evidence of all the witnesses.
10. P.W.1 has deposed in consonance with her complaint. In the cross-examination, she admitted that she was working as a sentry as on the date of alleged incident. She further admitted that, after the incident, she had been to the hospital for taking treatment. However, she further admitted that there were no bleeding injuries.
11. P.W.4 Dr.Kastoori stated in her evidence that on 22.08.2014, at about 9.35 pm, she is stated to have treated P.W.3 and submitted the wound certificate as per Ex.P.4. As per the said wound certificate, the injury Nos.2 and 3 are bleeding injuries. However, both P.Ws. 6 and 8 have deposed in her evidence that P.W.1 did not sustain any bleeding injuries. This contradiction could have been considered by the Courts below while appreciating the



evidence. When the evidence of eye witnesses do not corroborate with the medical evidence, the benefit of doubt should have been given to the accused or in other words, if two views are possible, one is in favour the accused should be considered and giving effect to.

12. Moreover, the prosecution has not obtained any report that the accused had consumed alcohol as on the date of alleged incident. If the case of the prosecution is not proved properly, the conviction in respect of offences ought not to have been recorded. However, the Courts below committed error not only in analyzing the evidence of all the witnesses but also applying the proper law on the case on hand. Therefore, the findings of the Courts below in recording the conviction are required to be set aside.

13. In the light of the observation made above, I proceed to pass the following:

ORDER

(i) The Criminal Revision Petition is *allowed*.



- (ii) the judgment of conviction and order on sentence dated 29.09.2016 passed in C.C.No.1274/2014 by the Court of Civil Judge and J.M.F.C., Kushalnagar and the judgment and order dated 27.06.2017 passed in CrI.A.No.60/2016 by the I Additional District and Sessions Judge, Kodagu, Madikeri are set aside.
- (iii) The petitioner/accused is acquitted for the offences punishable under Sections 332 and 353 of Indian Penal Code.
- (iv) Bail bonds executed, if any, stand cancelled.

Sd/-
(S RACHAIAH)
JUDGE