

(2011) 12 KAR CK 0314
In the Karnataka High Court
Case No : Criminal Appeal No. 1234 of 2011

Govindappa

APPELLANT

Vs

Srinivasa and Others

RESPONDENT

Date of Decision : 14-12-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 34, 341, 506

Citation : (2011) 12 KAR CK 0314

Hon'ble Judges : Subhash B. Adi, J

Bench : Single Bench

Advocate : Rohit Urs D, for the Appellant; Tharanath Poojary, for the Respondent

Final Decision : Dismissed

Judgement

Subhash B. Adi

1. Sri. Bhavani Singh, learned State Public Prosecutor is directed to take notice For respondent No. 7.
2. This appeal is by the complainant against the judgment of acquittal passed in C.C. No. 621/2009 dated 7.6.2011 on the file of the Chief Judicial Magistrate, Bangalore.
3. There is a delay of 83 days in filing the appeal. Along with the application for condonation of delay, the appellants have also filed an application seeking grant of special leave to file appeal.
4. Heard both the counsel on the applications and the matter is also considered on merit.
5. The case of the complainant is that, on 6.12.2008 at about 10 a.m.. accused Nos. 1 to 5 and absconding accused No. 6 came into the land bearing Sy. No. 2/4 of Chikkathoguru village belonging to PW-2 and with a common object of committing offence, assaulted PWs-1 and 2 with hands and gave threat to their lives. A charge sheet was filed for an offence punishable under Sections 341,

323, 506 read with 34 of IPC.

6. During the course of trial, complainant PW-1 and his sister PW-2 the alleged land owner of Sy. No. 2/4 were examined. However, though the summons were issued to the eyewitnesses, none of the eyewitnesses came forward to give evidence. Even PWs-1 and 2 admit that there was a dispute between the accused and the complainant's sister PW-2. They also admit that there was a compromise as per Ex. D1 and further admitted that a suit is still pending in respect of the very same land and there is an order of status quo.

7. No documents were produced to show that there was any injury sustained by PWs-1 and 2. Even the nature of injury is not stated. Further the evidence do not prove that the alleged land was in possession of PWs-1 and 2. It is in these circumstances, the Trial Court found that there is absolutely no evidence to convict the accused for any of the charges and accordingly acquitted the accused. Considering the findings of the Trial Court. I do not find any error committed by the Trial Court and further there is also delay of 83 days in filing the appeal and I find no grounds even to condone the delay.

Hence, appeal fails and is dismissed. Consequently applications are also dismissed.

8. Sri. Bhavani Singh, learned State Public Prosecutor is permitted to file vakalath within four weeks.