

(2026) 08 KAR CK 2140

In the Karnataka High Court, Bengaluru Bench

Case No : CRIMINAL REVISION PETITION NO.1068 OF 2023

Sri. Manikanta S R

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Cr.P.C. — Section 227

IPC — Sections 143, 323, 411, 427, 447, 504, 506 read with Section 149, 307, 327, 384

Citation : (2026) 08 KAR CK 2140

Hon'ble Judges : H. P. Sandesh, J

Bench : Single Bench

Advocate : Sri. Vivekananda H S, Sri M Divakar Maddur

Final Decision : Allowed

Judgement

This revision petition is filed by accused No.5 challenging the order dated 17.04.2021 in S.C.No.5034/2019 on the application filed under Section 227 of Cr.P.C. insofar as continuing offences under Sections 143, 323, 411, 427, 447, 504, 506 read with Section 149 of IPC.

2. Heard the learned counsel appearing for the respective parties.

3. The factual matrix of case of the prosecution is that an incident was taken place on 28.12.2015 in respect of Sy.No.16/P30 when the complainant and other task force staff were there at the above land at 02.45 p.m. and this petitioner and other accused persons in total more than 100 persons by forming an unlawful assembly came and caused damage to the gate and assaulted with their hands on the staff and kicked with their legs and also abused in a filthy language stating that they were protecting the company and they have also torn the cloth of CW1 and also caused the life threat and also an attempt was made to assault with club and iron rod and hence, witnesses were escaped from the spot. In the said scuffle, the complainant lost his DL, SBM ATM card and also the camera which was broken. In order to grab the property from the company all of them

have joined together and subjected them for assault. It is also the allegation that Janashree reporter was instigating them to assault and he also abused and assaulted with his hand. Hence, lodged the complaint and based on this complaint, the police have registered the FIR for the offences punishable under Sections 307, 327, 384, 504, 506, 447, 427 r/w Section 149 of IPC.

4. The police after registering the case investigated the matter and filed the charge sheet. In the charge sheet an allegation is made reiterating the contents of the complaint. While filing the charge sheet, the incident was restricted only to accused Nos.1 to 12.

5. The counsel appearing for the petitioner would vehemently contend that when the petition was filed before this Court in CrI. P.No.2184/2017 and other connected matters, this Court comes to the conclusion that charge sheet has already been filed against the accused persons and they can make their efforts to file an application for their discharge before the trial Court and with that observation, petition was disposed of. The counsel further would vehemently contend that when an application was filed by this petitioner and other accused persons, the trial Court allowed the application in part discharging this accused and other accused for the offences punishable under Sections 307, 327, 384 of IPC and in respect of the other offences under Sections 143, 323, 411, 427, 447, 504, 506 read with Section 149 of IPC is rejected. Hence, the present revision petition is filed before this Court.

6. The main contention of the counsel who appears on behalf of accused No.5 in this case would vehemently contend that when the application was filed before the trial court for the discharge, the trial Court though allowed the application in part in respect of some of the offences and discharged this petitioner but rejected the said application in respect of some of the offences even though there was no any material before the Court. The counsel also brought to notice of this Court that the order passed by this Court in W.P.No.3773/2016 wherein when the Tahsildar has given the direction to deliver the possession, this Court set aside the said order stating that Tahsildar cannot exercise the civil rights deciding the title directing to vacate the same. The counsel also brought to notice at this Court that the suit was filed before the Senior Civil Judge at Anekal in O.S.No.115/2022 and the suit was filed for the relief of delivery of possession and nothing is stated that they were in possession and also with regard to trespass in the year 2015. But only an averment is made in paragraph 18 that taking advantage of the situation that plaintiffs are residing in a place far away from the suit scheduled property, they are working in the city, in 2021 the defendants have encroached the portion of the scheduled property and they are having support of anti-social elements. In the said suit also this petitioner is arrayed as defendant No.3 and no averment is made in respect of the incident of the year 2015 when the suit is filed for the relief of delivery of possession. The counsel would vehemently contend that when the suit was filed for the relief of possession, the question of trespass does not arise. The counsel also brought to

notice of this Court that the case was registered against one Narendra Babu who is an Inspector and when the enquiry was conducted against him, an observation is made that he had exceeded his power registering the case. The counsel also brought to notice of this Court Annexure-L1 wherein it is held that PSI, Sree Murali has erred in conducting investigation and submitting the false information about the case to the higher officers. Disciplinary action has been taken against Sree Narendra Babu, PSI and Sree Murali, PSI for the above reason. The counsel would vehemently contend that it is nothing but a case of misuse of powers and falsely implicated this petitioner when there is a civil dispute between the parties.

7. Per contra, the counsel appearing for the State would vehemently contend that in the complaint itself the name of this petitioner is stated saying that this petitioner along with other persons trespassed the land and caused the assault and even caused the damage to the gate. The counsel also brought to the notice of this Court P.F.No.130/2015 for having conducted the mahazar and seized the uniform of security i.e., shirt and 2 clubs and 2 iron rods and pieces of glass and also the mahazar was conducted on the very same day i.e., on 28.12.2015 wherein also the name of this petitioner and other petitioners are also mentioned stating that all of them have trespassed and caused the damage. The counsel also brought to notice of this Court the statements made by CW2 to CW7 before the IO that all of them have found the presence of this petitioner and they have made the statement before the Court.

8. Having heard the learned counsel appearing for the respective parties and also considering the material on record, it discloses that incident was taken place on 28.12.2015 and this complaint was given by the security who is also working and the task force along with other staff were there and mentioned that incident was taken place at 02.45 p.m. and more than 100 persons were there. But mentioned the specific name of this petitioner and other accused persons and reiterated the contents of the complaint. Based on the complaint on the very same day at 04.00 p.m., FIR was registered against this petitioner and also 12 persons and in total against 100 persons. The police have also investigated the matter and filed the charge sheet. The contents of the complaint is also reiterated in the column number 17 of the charge sheet. No doubt, mahazar was done on the very same day that is on 28.12.2015 and uniform of one of the staff was seized, 2 clubs and 2 iron rods were also seized. But the very case of the prosecution is that they caused the damage to the gate. In respect of the damage gate is concerned, the same is not seized and the same is silent in PF form.

9. It is the case of the complainant that they have threatened with club and iron rod. But they have escaped from the said blow. Hence, it is not the case that they assaulted with club and the iron rod but the same were seized. No doubt, mahazar was also done on the very same day i.e., 28.12.2015 and contents of the complaint are stereotype in the statement of CW2 to CW7.

10. It is also important to note that when the offence of 307 as well as 323 was

invoked, not produced wound certificate when the mob assaulted with their hands on the persons who are present. No doubt, trial court taken note that there no material with regard to the offences under Sections 307, 327, and 384 of IPC. But in respect of the other offences is concerned i.e., 143, 323, 411, 427, 447, 504 and 506, the Trial Court comes to the conclusion that case has to be proceeded against the petitioner along with other accused persons. But other accused persons have not approached this Court. Having perused the statement of CW2 to CW7 it discloses that all statements are stereotyped. With regard to the mischief is concerned, nothing is recovered. Even PF also not discloses anything about causing of mischief. In respect of trespass is concerned, it appears that there is a civil dispute between the parties in respect of Sy.No.16/P30. In respect of other offences are concerned, when the specific allegations are made that they were subjected to assault with their hands, nothing is placed on record but assaulted by mob fury. When material is not available before the Court, proceeding against this petitioner based on the omnibus statement of the alleged eyewitnesses CW2 to CW7, does not arise. It is not the case of the complainant that accused persons assaulted with club and iron rod. But when they made an attempt to assault them, complainant escaped from the said blow. Hence, having taken note of over all material on record with regard to the very incident is concerned, there is a doubt since IO not collected any other material except the stereotype statement of CW2 to CW7 that they are the eyewitnesses.

11. Though it is contended that they abused in a filthy language, for using the filthy language, particular word is also not attributed and also causing of damage and to invoke the offence under Section 427 of IPC with regard to the mischief is concerned, nothing is placed on record and so also with regard to the omnibus statement that they caused life threat, no material is placed. Though it is contended that there are more than 100 persons according to the complainant, but charge sheet is filed only against the 12 persons when the complaint discloses that there was a mob fury to the extent of 100 persons and what made to leave other accused persons is also not stated. Hence, taking into note of all these materials available on record, it is a clear case for discharge of this accused No.5 in respect of other offences also. The trial Court fails to take note of the material available on record to comes to the conclusion that whether it is a fit case to proceed against the accused persons or not in respect of other offences and no such opinion is also formed except making an observation that in respect of these accused persons in these offences the accused is not entitled for discharge.

12. In view of the discussions made above, I pass the following:

ORDER

The revision petition is allowed.

The petitioner/accused No.5 is discharged in respect of offences punishable under Sections 143, 323, 411, 427, 447, 504, 506 read with Section 149 of IPC.

In view of disposal of the main petition, I.A. if any, does not survive for consideration and the same stands disposed of.