Karnataka Civil Judge (Mains) 2012 (CJR 1/2010)

Law Paper III · compulsory paper

Framing of charge and writing of a judgment in Criminal case · Date: 14.04.2013 · Time: 2.00 PM to 5.00 PM · Max Marks: 100 · Option is given to the candidates to write answers either in English or in Kannada.

1. Frame the charge against the accused persons for their trial, on the basis of following charge sheet materials: 25 Marks

The complainant Rajendra was residing along with his wife Suma in Banashankari II Stage, Bangalore. As the properties of Smt.Suma at her parental place were sold, she brought the amount of Rs.1,00,000/- to her husband's house and she gave hand loan to 2-3 persons in her locality. Similarly, A-1 Ramesh son of Nagappa and A-2 Smt.Parvathi wife of A-1 also borrowed Rs.50,000/- from deceased Suma promising to repay the amount within three months. As A-1 to A-2 failed to repay the amount within the said period the deceased Suma went to the house of A-1 & A-2 to recover the amount at 5-30 p.m. on 18.2.2000. At that time the complainant had been to his business shop. When Suma asked to repay the amount at that time both accused picked up quarrel with her and A-1 pushed and made her to fell on the ground and A-2 held her tightly and A-1 stabbed Suma on the stomach with knife and caused her death and tried to bury the dead body in their house with an intention to screen the evidence. The complainant after coming to the house noticed that his wife was not in the house and enquired in the locality. Thereafter, he went to the house of the accused and asked them whether his wife came to their house to ask the repayment of the amount and the accused told that she did not come. Then he orally informed Banashankari police at 11 p.m. on the same night that his wife is not seen. Complainant on suspicion again went to the house of the accused on the next day morning and the door was locked. The complainant went back side of the house and peeped through kitchen window that the dead body of Suma was lying on the kitchen floor and there was bandage on the stomach and she is dead, and again he went to the police station and lodged the complaint against A-1 & 2.

2. Write considered judgment in the following case by giving valid and cogent reasons: 75 Marks

C.C.No.18/2003

State .. Complainant

V/s

Bargath son of Nawab, Age - major, R/o Bangalore .. Accused

The accused has been charge-sheeted by the State for the offence punishable under Sec.419 & 420 of IPC on the following charges:

1. That on 30.11.2002 at about 3-15 p.m. on Hosur Road near Central Silk Board Junction accused was proceeding on his Kinetic Honda, CW-2 Police Constable having seen the accused violating Traffic Rules stopped the accused and questioned him. The accused showing the identity card as a police constable attached to KSRP IV Battalion claimed that he was a KSRP constable even though he was not a KSRP police constable and personated and cheated CW-2 Raju, a Police Constable and the State and thus committed an offence punishable under Sec.419 of IPC within the cognizance of the Court.

2. That on the above said date, time and place, though you (the accused) were not the KSRP police constable claimed as KSRP police constable by showing a false identity card and cheated CW-2 Raju

Police Constable and thereby committed an offence punishable under Sec.420 of IPC within the cognizance of this court.

Accused pleaded not guilty and claims to be tried for the aforesaid charges.

Sd/- Chief Judicial Magistrate, Bangalore.

In order to prove the case of the prosecution, prosecution has relied upon the evidence of 5 witnesses PWs-1 to 5 and got marked documents Exs.P-1 to 5.

PW-1 Shivanna · Duly Sworn on:

EXAMINATION-IN-CHIEF: By APP

I was working as ASI attached to Madiwala police during the year 2001-02. I was entrusted with Tiger squad. On 30.11.2002 at about 3-15 p.m. near Silk Board Junction accused came in a Kinetic Honda CA-1269 from the opposite direction. When I enquired him he told me that he was a KSRP police constable. Since the accused was a beard person, complainant Raju CW-2 got suspicion about him and made further enquiry with the accused. Then it was informed by the accused that he was not a KSRP police but his friend one Ibrahim was working as KSRP police and his identity card had been given to him by fabricating the same. Hence I lodged a complaint as per Ex.P-1. Ex.P-2 is the zerox copy of the identity card produced by the accused.

CROSS-EXAMINATION: By Sri.Sanjeeva Rao

I know the vehicle number of Tiger Squad. The accused had violated the traffic Regulation which fact was narrated to me by CW-2 PC Raju constable attached to me. The identity card was not seized in the presence of panchas. The driving license and also the identity card as per Ex.P-3 was shown to me. I have not stated the details of the documents of the vehicle in my complaint. I also did not enquire as to who is the owner of Kinetic Honda. Ex.P-3 was produced before the SHO. There is no special identification marks found on Ex.P-3. It is false to say that I have lodged a false complaint against the accused.

Re-Examination: Nil · R.O.I. & A.C. · Sd/- Chief Judicial Magistrate, Bangalore

PW-2 C.Raju P.C · Duly Sworn on:

EXAMINATION-IN-CHIEF: By APP

I was working as a police constable attached to Madiwala police station during the year 2002-03. On 30.11.2002 at about 3-15 p.m. I was entrusted with the duty of controlling the traffic near Silk Board Junction. At that point of time, accused came in a Kinetic Honda, I stopped the vehicle and enquired about him, since he had violated the traffic rules. Accused informed me that he was working as a police constable at KSRP. By that time PW-1 came to the spot in the Tiger Squad vehicle. In order to make enquiry the accused was taken by PW-1 to the police station. I have not seen any document which was produced by the accused before PW-2. I have not stated before PW-1 about the accused showing the identity card and I also did not inform PW-1 that I got suspicion about A-1 since he was a beard person.

(At this stage APP requests the court to treat this witness as hostile and APP was permitted to cross-examine the witness)

CROSS-EXAMINATION: By APP

It is true that I have given a statement before the police that accused was a beard person and I got suspicion and accused had shown identity card. I saw fake identity card in the police station.

CROSS-EXAMINATION: By Defence Counsel - Nil
Re-examination: - Nil - · R.O.I. & A.C. · Sd/- Chief Judicial Magistrate, Bangalore.

PW-3: Hiremath, Battalion Commandant · Duly sworn on:
EXAMINATION-IN-CHIEF: By APP

I was working as a Battalion Commandant of KSRP during the year 2002-03. On 2.1.2003 Madiwala police has sent a Photostat copy of ID card of one Bargath along with that I received a photograph of a person who was wearing KSRP uniform. I also received a photograph of the said person in civil dress. I examined those photos and identity card. In that identity card, it was mentioned as KSRP PC 786. On enquiry it was learnt that the accused Bargath was not working in KSRP and the identity card PC 786 did not belong to him. Ex.P-3 is the letter sent by me to Madiwala police. I have issued the copy of the identity card on the request of KSRP. The identity card sent by Madiwala police is a fake document. Seal of the office and signature of the issuing authority is not found on the document. Identity card does not bear the signature of the inspector who is the issuing authority.

CROSS-EXAMINATION: By Mr.Sanjeeva Rao

Based on the information of the Inspector I have issued Ex.P-2 letter. The photo sent to me is not so clear as to identify a person.

Re-examination: Nil · R.O.I. & A.C. · Sd/- Chief Judicial Magistrate, Bangalore

PW-4: Sabu Thomas, Photographer · Duly sworn on:
EXAMINATION-IN-CHIEF: By APP

I am the proprietor of Brindavan Studio. I know the accused. He is my customer for the last few years. Few years back he had come to my studio with a request to take his stamp size photograph. Accordingly I have taken his stamp size photograph. I have issued a receipt to the accused. Several months later, Madiwala police visited my studio and enquired with me as to whether the photograph of the accused was taken by me or not. I informed the police that it is he who had taken the photograph of the accused at his request. Ex.P-3 is the photograph taken by me.

CROSS-EXAMINATION: By Mr.Sanjeeva Rao

In the year 2002 accused had come to my studio for stamp size photograph. I did not deliver the negative to the accused or to the police. I am in the habit of delivering negatives to the customers. I cannot remember whether police had collected the copy of the receipt from me, original of which was issued to the accused. I can identify the customer on the basis of the photograph taken by me and also on the basis of the receipt issued by me. I cannot remember the date on which the police visited my studio for the purpose of enquiry. I do not remember the names and ranks of the police officers who visited my studio for enquiry.

Re-examination: Nil · R.O.I. & A.C. · Sd/- Chief Judicial Magistrate, Bangalore

PW-5: T.Puttaramegowda · Duly sworn on:
EXAMINATION-IN-CHIEF: By APP

On 30.11.2002 at about 1545 hours PW-1 appeared before me and produced the accused with a report, identity card and a Kinetic Honda. I have registered a case in Cr.No.75/2003 and submitted FIR to the

jurisdictional court. Ex.P-1 is the complaint lodged by PW-1. My endorsement is as per Ex.P-1(b). FIR is Ex.P-4. After securing the panchas I seized the ID Card and the Kinetic Honda under Mahazar Ex.P-5. ID card is Ex.P-3. I can identify the vehicle seized by me. ID card is a fake card. Accused was not a police constable.

ID card was sent by me to Commandant of KSRP for verification. Ex.P-2 is the reply sent by the Commandant of KSRP stating that the person found in the ID card was not working with them as a police constable. They have issued a certificate as per Ex.P-2.

CROSS-EXAMINATION: By Mr. Sanjeeva Rao

I have not examined Ibrahim who has been referred in the complaint. I have not collected negatives of the photos or a copy of the bill. It is true to say that I have not conducted investigation in regard to the preparation of ID card and I did not try to seize the printer used for preparing the ID card. I have not conducted investigation as to who had signed Ex.P-2. It is false to suggest that accused and the complainant were not in good terms and a false complaint has been lodged by PW-1.

Re-examination - Nil · R.O.I. & A.C. · Sd/- Chief Judicial Magistrate, Bangalore

Accused statement under Sec.313 Cr.P.C. was recorded. He denied the allegation of the prosecution.

Witnesses examined for the prosecution:
PW-1 .. Shivanna
PW-2 .. C.Raju P.C.
PW-3 .. Hiremath
PW-4 .. Sabu Thomas
PW-5 .. T.Puttaramegowda

Witnesses for Defence: Nil

Exhibits marked for prosecution:
Ex.P-1 .. Complaint
Ex.P-2 .. Letter of Commandant KSRP
Ex.P-3 .. ID Card
Ex.P-4 .. FIR
Ex.P-5 .. Seizure mahazar

Documents marked for Defence: Nil