Karnataka Civil Judge (Mains) 2015 (CJR 1/2014)

Law Paper III · compulsory paper

Framing of Charges and writing of a Judgment in Criminal Case · Date: 13.09.2015 · Time: 2.00 PM to 5.00 PM · Max Marks: 100

Note: (1) Option is given to the candidates to write answers either in English or in Kannada. (2) If there is any discrepancy in the questions in English language and in Kannada language, the questions as framed in English language would prevail. (3) Frame the charge against the accused persons for their trial on the basis of the following charge-sheet materials. (4) After going through the evidence of the witnesses of the prosecution, prepare a statement under Section 313 of the Code of Criminal Procedure, 1973. (5) Write a considered judgement on the basis of oral and documentary evidence by giving valid and cogent reasons.

Charge-sheet materials

On 12/8/2014, at 10 AM in front of Panchayat Office at Anekal within the limits of Anekal Police Station, Accused No. 1-Dileep, 2-Pradeep and 3-Sudeep were sitting on a platform and were talking loud, taking the name of Mallika abusing her character. At that time, Sawanth came to a tea stall which is by the side of Panchayat office. He was carrying his spade with him as he wanted to go to his agricultural land. Incidentally, the name of his sister is also Mallika, but she was not the one referred by accused nos. 1,2,3. That time, in the panchayat elections Sudeep-A3 had defeated Sawanth.

Having heard the talk of Accused Nos. 1,2,3 and the name of Mallika, complainant thought that they were referring his sister, he advanced towards the accused and questioned them in a loud voice for commenting on Mallika.

Accused persons talked among themselves against complainant-Sawanth and also abused and pushed him. Accused No. 2 Pradeep snatched the spade from complainant-Sawanth and gave it to Dileep-A1. Sudeep passed a blow with his right fist on the nose of complainant-Sawanth and he started bleeding through nostrils. By that time, CW2-Chandra came to rescue complainant-Sawanth. Accused No. 1 Pradeep hit CW2-Chandra with spade on the right shoulder thereby inflicting severe pain. The accused No. 2 & 3 shouted at complainant-Sawanth and CW2-Chandra that they would wait for an opportunity and end the lives of complainant-Sawanth and CW2-Chandra.

Thus accused No. 1, 2 & 3 in furtherance of common intention committed offence punishable u/s 323, 324, 506 read with Section 34 IPC.

Hence, this final report - charge sheet against the accused 1, 2 & 3 for the offence punishable under Section 323, 324 and 506 read with Section 34 IPC.

The evidence led by the prosecution to prove the guilt of the accused is as follows:

PW-1: Doctor Sharath

Duly sworn on 1/9/2015. Examination-in-chief by Assistant Public Prosecutor.

On 12/8/2014 when I was discharging my duty as medical officer in the Government hospital at Anekal. One Sawanth aged 45 years son of Shivaji Rao and Chandra aged 48 years son of Gurumurthy were brought to me by P.C. No. 465 of Anekal Police at 1 PM with the history of assault. I examined both Sawanth and Chandra, they had injuries.

On examination of Sawanth, I found he had suffered bleeding from the nostrils and tenderness was found. The injured was complaining pain in the nasal septum. I have issued the wound certificate as per Ex. P1 and P1(a) is my signature. The injury found in Ex.P1 is possible through a blow from a fist on the nose.

At 1.15 PM on the same day I have examined Chandra son of Gurumurthy. On examination, I found tenderness on the right shoulder and he was complaining of severe pain. Abrasion was present on the right shoulder measuring 2 x 3 cm. Wound certificate issued by me is as per Ex. P2 and my signature is Ex.P2(a). If a person sustains injury through a hit from a club or a handle of a spade injury mentioned in Ex. P2 is possible. Injuries in Ex.P1 and Ex.P2 were simple in nature.

Cross-examination by Sri. Arun Kumar, Advocate for accused 1,2,3

It is possible that a person may suffer injuries similar to those mentioned in Ex. P1 and P2 if he suffers a fall frontwards and contacts a hard object with sufficient force. R.O.I & A.C.

PW-2: Sawanth son of Shivaji Rao

Duly sworn on 1/9/2015. Examination-in-chief - By Assistant Public Prosecutor.

I am an agriculturist. I know the accused Nos. 1 to 3. About one year back one day at about 9.30 to 10.00 PM, I left my home at Anekal along with my spade for carrying out agricultural acts. Today, I see the same spade before the Court as per MO 1. On the way, to my agricultural land at Anekal I have to pass in front of our Panchayat office and I went to a tea stall which is by the side of Anekal Panchayat office.

I saw accused persons 1 to 3 sitting on a platform near Panchayat office and were passing comments against my sister Mallika. I went near them and asked them about their comments. Accused No. 3 hit me through his hand on my nose forcibly and I started bleeding. Chandra came to my help but the accused did not care and were abusing me and also Chandra and accused Dileep hit Chandra with the handle of MO1 on the right side of the neck.

Both of us were screaming. Sudeep threw MO1 and the accused persons went away.

Krishna and Jaffar of our place took us to Police Station and I told the police about the incident. I gave my complaint as per Ex. P3. I have signed it as per Ex. P3(a).

Myself and Chandra were taken to hospital and we were given medical attention by the doctor at Anekal.

Thereafter, Police came to the spot near Panchayat office myself Krishna, Jaffar and Kamble were present.

On the same day, police conducted mahazar and seized the spade MO1 and also the sample soil and blood stained soil. Now I see them as per MO2 and 3. The mahazar conducted by the Police is as per Ex. P4. I, by that time secured alternative shirt from the house and gave the blood stained shirt to the Police and now, I see my shirt as per MO4.

Cross-examination by Sri. Arun Kumar, Advocate for accused 1,2,3

It is true to suggest, that in the year 2014, I was defeated in the Panchayat election by accused no. 3. It is true to suggest, the area near panchayat office will be crowded at 10 AM in Anekal. It is true to suggest that there is another lady by name Mallika and she resides near Post office at Anekal. I thought

that the accused person were commenting on my sister Mallika. My sister resides in our house at Santhepet, Anekal. At the time of the incident, Krishna and Jaffar were inside the Panchayat office.

It is false to suggest, that due to election rivalry, I have lodged a false report against the accused. It is false to suggest that none of the accused persons abused or hit me or Chandra. It is false to suggest that no mahazar was conducted and no seizure of MO1 to 4 was made by the Police.

It is false to suggest that MO 1 and 4 do not belong to me.

It is false to suggest that I am deposing false. R.O.I & A.C.

PW-3: Chandra son of Gurumurthy

Duly sworn on 1/9/2015. Examination-in-chief - By Assistant Public Prosecutor.

I know the accused persons 1 to 3 and the complainant Sawanth. My native place is Chandapur. I am a carpenter. I have a shop in Anekal. About ten to twelve months back at 10 AM near Panchayat office at Anekal, I was going to bring wooden frames from a shop and I saw altercation from the accused person and the complainant there. Meanwhile, one of the accused hit complainant-Sawanth on the nose and it started bleeding and I intervened to rescue complainant-Sawanth. Meanwhile, accused no.1 Pradeep hit me with the spade MO1 on my right shoulder causing injuries. Myself and Sawanth went to Police Station to lodge complaint and it was lodged by Sawanth. Thereafter we were taken to hospital and treatment was offered to us. Police have recorded my statement.

Cross-examination by Sri. Arun Kumar, Advocate for accused 1,2,3

I do not know whether the spade MO1 was snatched by any of the accused from the hands of complainant-Sawanth. I do not know the utterances regarding the name of Mallika.

It is true that in our area we have two women having the name of Mallika.

It is false to suggest that none of the accused hit complainant-Sawanth and I did not intervene. It is false to suggest that either accused no. 1 or any of the accused did not hit me with spade MO1 at the time of incident. It is false to suggest, Police have not recorded my statement.

It is true that the complainant is my relative. It is true that there is a civil dispute between me and accused no. 2 in respect of a vacant site at Attibele. It is false to suggest that none of the accused hit me or Sawanth at any point of time and I am deposing false. R.O.I & A.C.

PW-4: Krishna son of Ramanna

Duly sworn on 1/9/2015. Examination-in-chief - By Assistant Public Prosecutor.

I know the complainant and accused 1 to 3 about one year back in the morning. I was in my tea shop at Anekal near panchayat office at about 9.00 a.m. I saw accused persons 1 to 3 and the complainant near the panchayat office and there was a galata among them. There was exchange words in loud voice between the complainant and the accused. I was in my tea stall. The complainant was pointing his finger towards the accused meanwhile one of the accused hit the complainant with hand on the face. And complainant started bleeding through his nose. Meanwhile CW-2 Chandra came and again complainant and the accused 1 and 2 were exchanging words. Accused No.1 hit CW.2 Chandra with MO 1 on the neck.

Myself and Jaffar went near the complainant and he has asked us to take him to Police Station and we went to Anekal Police station and the complainant lodged the report. In the afternoon Police came near panchayat office at Anekal and conducted mahazar as per exhibit P.4 at the time myself

complainant Jaffar present. I have signed the mahazar as per Ex.P4(a). Police seized spade MO 1 from the spot. Jaffar told me that Police also seized the sample soil. Police recorded my statement.

Cross examination by Sri.Arun Kumar, Advocate for accused 1,2,3

I do not know whether the galata was in respect of raising the name of Mallika. I do not know for what reason the galata took place. The distance between my tea stall and the place of incident is about 200 ft. There is road in between my tea stall and the place of incident. It is false to suggest that I was not present in my tea stall and I have not seen any galata. It is false to suggest none of the accused hit either the complainant or CW.2 Chandra. It is true that accused No.2 has lodged complaint against me and the case is pending in the court at Anekal. It is true that I am in good terms with complainant. I have not seen the Police seizing the soil. It is false to suggest that the Police never visited the spot and not conducted the mahazar and not seized MO 1. It is false to suggest because of my enmity with accused No.2 and friendship with complainant I am deposing false. R.O.I & A.C.

PW-5: Jaffer, Son of Sadiq

Duly sworn on 1/9/2015. Examination-in-chief - By Assistant Public Prosecutor.

I know the accused 1 to 3 and complainant. I am working as Attender in the panchayat office at Anekal. About 8 months back there was a galata near panchayat office at Anekal. I saw complainant and accused persons 1 to 3 exchanging words there after accused. When I went near the spot from the panchayat office accused 1 to 3 had gone away and complainant was bleeding through his nose and CW 2 Chandra was complaining pain in his shoulder. I myself and Krishna were requested by the complainant to take him to Police station. Accordingly we took him to Police station and complainant went inside the Police station. Later in the afternoon Police came near panchayat office and wrote something and collected the spade MO 1 and sample soil and also blood stained soil as MO 2 and 3. Krishna and complainant were present. The mahazar is as per Ex.P4 and my signature is 4(a). Police have recorded my statement. R.O.I & A.C.

Cross examination by Sri.Arun Kumar, Advocate for accused 1,2,3

I have not seen any of the accused person hitting the complainant. I do not know the contents of Ex.P4. Police have not read over the contents of the statement recorded from me.

It is false to suggest that I have not seen any galata on the date of incident. It is further false to suggest that Police have not conducted mahazar and not seized MO 1 to 3. I do not know whether complainant produced the shirt MO4 at the time of the Mahazar.

It is false to suggest that I do not know anything about the case but deposing false against the accused out of illwill. R.O.I & A.C.

PW-6: Sharath Kumar, Son of Rajagopal

Duly sworn on 1/9/2015. Examination-in-chief - By Assistant Public Prosecutor.

From 1/4/2013 to 2/1/2015, I have worked as Sub-Inspector of Police, Anekal. On 12/8/2014 at 11.30 AM CW1, Sawanth came to our police station and lodged a report which is already marked as Ex.P3 and after going through Ex.P3, I registered FIR against accused no. 1 to 3 in crime no. 346/14 for the offence punishable under section 323, 324, 506 read with section 34 IPC and despatched the complaint and the FIR to the jurisdictional court.

I sent the complainant and PW3 who had accompanied him to the Government hospital, Anekal along with our constable no. 443. The FIR registered by me is as per Ex. P5. At 2 PM on the same day I went to the spot which is near Panchayat office at Anekal and conducted the mahazar as per Ex. P4 in the presence of complainant Krishna, Jaffar and another. During the mahazar I seized MO1 to 3 from the spot. Complainant produced blood stained shirt MO4. On the same day, I recorded the statement of CW 2 who is PW3, CW-4 Krishna tea stall owner, CW-5 Jaffar attender at Panchayat office. On 17/8/2015, I collected the wound certificates Ex. P1 and Ex.P2 from the doctor PW1. On the same day I recorded the statements of CW 6 & 7.

On 18.08.2015, after verifying the investigation, I submitted the charge sheet into the jurisdictional court.

Cross-examination by Sri. Arun Kumar, Advocate for accused 1,2,3

It is false to suggest that no complaint was lodged before me as per Ex. P3 and there were no grounds to register FIR. It is false to suggest that I have not conducted mahazar as per Ex. P4. It is false to suggest that I have not seized MO 1 to 5 and not recorded the statements of any witnesses. It is false to suggest that I have not collected any document. It is false to suggest that there were no grounds to submit charge sheet. R.O.I & A.C.

Particulars of documents relied upon by the prosecution

List of documents:

Ex.P1 - Wound Certificate of P.W.2

Ex.P2 - Wound Certificate of P.W.3

They show that PW2 was injured on his nose and PW3 on the right shoulder. They show that P.W.2 and P.W.3 were injured on 14/8/2014. Ex.P1 and Ex.P2 are issued by the Medical Officer PW1.

Ex.P3 - Complaint lodged by P.W.2

Ex.P4 - Spot Mahazar dt. 12/8/2014 with recovery

List of Material Objects:

MO1 - spade

MO2 - Sample soil

MO3 - Blood stained soil

MO4 - Blood stained shirt