Karnataka Civil Judge (Mains) 2017

Law Paper III · compulsory paper

Date: 16.07.2017 · Max Marks: 100 · Time: 2.00 PM to 5.00 PM

Note: Option is given to the candidates to write answers either in English or in Kannada. If there is any discrepancy in the questions in English language and Kannada language, the questions as framed in English language shall prevail.

1. Frame the accusation or charge as required for the trial of accused on the basis of the following charge sheet materials. 10 Marks

On 3.12.2004 at about 3.15 PM at K.M.Puram, near Prajna International School within the jurisdiction of K.M. Puram Police station, the accused Ramesh was found driving a vehicle i.e., Maruti Van bearing No. KA18 MR 3600 in a rash and negligent manner so as to endanger human life and public safety to others and while driving the above said vehicle in the said manner, the accused dashed his Maruti Van to an Auto Rickshaw bearing KA18 MG 6688 which was coming in the opposite direction and as a result caused simple injury to one Raja and grievous injuries to one Mohan who were travelling in the said Auto Rickshaw as passengers and caused the death of Ram Ganesh who is the driver of Auto Rickshaw. The accused Ramesh failed to attend to the victim and intimate the police about the accident and ran away from the spot.

2. Frame appropriate charge for the Trial of an accused on the basis of the following charge sheet materials. 15 Marks

It is alleged in the charge sheet filed by K.P. Agrahara police station that on 20.12.2012 at about 7.00 PM, when CW1 Shankar was at Gagan Telecom Mobile shop situated near Kadamba circle, Bhuvaneshwari Nagar within the limits of K.P. Agrahara Police station, accused No.1 to 5 in furtherance of their common object to commit an offence formed into an unlawful assembly by holding deadly weapons like matchet and stones and came near the aforesaid shop, the accused No.1 Suresh called the complainant out side the shop on the pretext of talking with him and when the complainant came out side the shop, the accused No.1 Suresh wrongfully restrained him and picked up quarrel with him, abused him in filthy language as 'Bolimagane', 'Bulemagane' with regard to the quarrel that took place with the CW1 and father of accused No.1, assaulted him with the help of hatchet over his head and caused bleeding injuries, the accused No.2 to 5 i.e., Nagaraj, Anand, Kiran and Sunil have assaulted CW1 with the help of stones on his head and left leg, caused bleeding injuries to him, the accused No.5 assaulted CW1 by his hands, kicked with his right leg, voluntarily caused hurt to him and all the accused persons gave threat to the life of CW1 by saying that if he files any complaint with the police, they are going to kill him. Therefore, CW1 Shankar lodged a complaint before the jurisdictional police. As such, this case came to be registered against the accused persons. The wound certificate of CW1 reveals that he has sustained simple injuries.

3. Write a considered judgment in the following case by giving valid and cogent reasons assuming rival contentions from the facts. 75 Marks

CC No.611/2012

Complainant: State of Karnataka represented by Kempanahalli Police station
Vs

Accused: Nawaz Ahmed @ Nayaz S/o Mohammed, Aged 25 years, Near Jumma Masjid, Kempanahalli, K.M.Pura.

Facts of the case

Complainant Venkatalaxmi is a resident of Sunrise colony, Kempanahalli, K.M.Pura. She is working as receptionist in Sridevi Nursing Home, Kempanahalli. On 31.07.2011 at about 6.00 AM, when the complainant was proceeding towards her house after purchasing Milk from nearby Nandini Milk Parlour, an unknown person aged 20- 25 years, came from opposite direction and placed a knife on her neck and snatched Gold Mangalyasara weighing 35 grams and ran away from the spot. The complainant raised alarm, but nobody came to her rescue as there were no passersby. Therefore, the complainant went to the Kempanahalli police station and gave written complaint on-- 31.07.2011 at 9.15 AM. Police registered a case in Crime No.173/2011 for an offence punishable u/s 392 of IPC against unknown person and sent the FIR to the Civil Judge and JMFC Court, K.M.Pura on 31.07.2011 at 11.00 AM through PC 549 of Kempanahalli police station.

On 31.07.2011 at 10.45 AM, Police Sub-Inspector of Kempanahalli PS went to the spot of occurrence and complainant showed the place of occurrence to the police and pancha witnesses, the police drew spot mahazar and seized Karimani and Gold Beads from the spot and reported the same under PF to the court.

On 31.07.2011, police inspector deputed the police staff to secure the accused. On 16.08.2011 at 4.30 PM on receipt of credible information, the police inspector went to Bombay Bazaar and found one person in a suspicious manner standing near a pulsar bike bearing No. KA18 MX 4090 in front of Bombay Bazaar and they caught hold of him. On enquiry, he disclosed his narne as Nawaz Ahmed @ Nayaz and they seized the pulsar bike bearing No. KA18 MX 4090 under seizure mahazar and recorded the voluntary statement of accused. The police have seized Mangalajyothi gold loan receipt from the accused for having pledged gold chain weighing 23.4 grams for Rs.43,500/-.

On 17.08.2011, the accused was produced before the court and took him to police custody. On 18.08.2011, the accused took the police to Shivanahalli, house No.58/3 and Mani Hanumayya identified the accused and produced one gold chain weighing 27 grams, Godhi design chain 16.6 grams. The police have seized the articles under seizure Mahazar.

On the same day, they went to Mangalajyothi gold loan shop situated at Shivajihalli and seized 23.4 grams of gold chain and Mangalya under seizure mahazar.

On 19.08.2011, the accused took the police to the shop of Anand and said Anand identified the accused and produced gold Mangalya weighing 5 grams, 6 grams of Mangalya, 2 grams of 6 Gold Beads. The police have seized them under seizure mahazar and produced the accused before the court and he was remanded to judicial custody. On completion of investigation, a charge sheet came to be filed againSt this accused for an offence punishable u/s 392 of IPC.

The following charge was framed against the accused:

That on 31.07.2011 at 6.00 AM, when the complainant Venkatalaxmi was proceeding towards her house situated at Sunrise colony, Kempanahalli, K.M.Pura within the jurisdiction of Kempanahalli Police station after purchasing milk from nearby Nandini milk parlour, the accused came from opposite direction and with dishonest intention fraudulently placed a knife on the neck of the

complainant by putting her in fear of instant hurt and snatched gold Mangalyasara weighing 35 grams and ran away from the spot and thereby committed an offence punishable under section 392 of IPC.

The accused pleaded not guilty to the above charge.

The prosecution examined in all seven witnesses and got marked ExP1 to P12 and MO1.

The accused was examined u/s 313 of Cr.P.C. He denied the entire prosecution case. Accused did not lead any defence evidence.

Evidence

CW1 – PW1 – Venkatalaxmi. Duly sworn on 18.09.2012

Examination in Chief by APP

On 31.07.2011 at 6.00 AM, when I was proceeding towards my house after purchasing milk from nearby Nandini milk parlour, one person aged 22 years came and placed knife on my neck and snatched my Mangalyasara and ran away from the spot. I raised hue and cry and informed my husband who was in the house. Thereafter, I lodged a complaint before the police marked as ExP1, my signature is marked as ExP1(a). Then the police came to the spot and drew mahazar at ExP2, my signature is marked as ExP2(a). After one month, the police called me to the police station and showed my Mangalyasara. Police told me that the accused is in the jail and his name is Nawaz Ahmed @ Nayaz. Now I produce my Mangalyasara and it is marked as MO1. (MO1 taken back by me). Photo of Mangalyasara is marked as ExP3. I can identify the accused. Now I identify the accused through video conference. He is the person identified by me in the central prison at the time of identification parade. He is the person who robbed my Mangalyasara.

Cross examination by Advocate for accused

I know Kannada to read. ExP1 is not in my handwriting. On ExP1, it is written with regard to snatching of my Mangalyasara. I went to police station .thrice on this incident. All the time I went to the police station, the police obtained my signatures. I have put my signature in ExP2 on the spot. I cannot say the boundaries of spot of occurrence. I cannot say the names of the persons who came to the spot of occurrence. It is not true to say that the person seen in the video conference is not the person who robbed my Mangalyasara. It is not true to suggest that I am deposing falsely as per the instructions of the police. My house is situated at a distance of 40-50 feet away from the spot of occurrence. There were no people moving on the spot at the time of incident. Public used to come to the milk parlour to purchase milk in the morning hours. I had not seen the accused prior to the date of incidence. I could see his face clearly at the time of incident. I could identify the accused in the Jail. It is not true to suggest that I did not identify the accused either on the spot or in the jail. The police constable had written my complaint as dictated by me. I cannot say the name of the police constable. Accused snatched my chain weighing 35 grams. Police gave me 30 grams of chain and 7 small Gold Beads. It is not true to suggest that a false case has been foisted against the accused at the instance of police.

Re-examination: Nil

R.O.I & A.C. Sd/- JMFC.

CW2 – PW2 – Suresh. Duly sworn on 18.09.2012

Examination in Chief by APP

Complainant is my wife. Last year in the month of July, the police came to the spot of occurrence for investigation regarding incident of robbery of Mangalyasara of my wife and drew mahazar at ExP2 and my signature is ExP2(b). My wife showed the place of occurrence to the police.

Cross examination by Advocate for accused:

It is not true to suggest that the accused has not robbed the Mangalyasara of my wife. I went to the police station once to lodge a complaint and again after tracing of the chain. It is not true to suggest that the police had written ExP2 in the police station and took my signature. I cannot say the boundaries of the place of incident. At the time of drawing the mahazar, I along with my wife, brother-in-law was present.

Re-examination: Nil.

R.O.I & A.C. Sd/- JMFC

CW4 – PW3 – Mohammed Pasha, PC927 of Kempanahalli PS. Duly sworn on 18.09.2012

Examination in Chief by APP

Since 30.09.2009, I have been working as police constable in Kempanahalli PS. On 16.08.2011, CW 19 Rajendrakumar deputed me and CW12 and CW15 to trace the accused involved in the above case. Accordingly, we were on patrolling duty in a official jeep and when we came near Bombay Bazaar, we found one person suspiciously standing in front of Bombay Bazaar with bike bearing No. KA 18 MX 4090 and we caught hold him and brought the accused to the police station along with bike. I can identify the accused.

Cross examination by Advocate for accused

I have not produced any document to show that I was deputed by higher officer to trace the accused. It is not true to suggest that I did not apprehend the accused near Bombay Bazaar on 16.08.2011. It is not true to suggest that I am deposing falsely at the instance of my higher officers.

CW18 – PW4 – Nagendra R., Police Inspector, K.K.Nagar P.S. Duly sworn on 09.10.2012

Examination in Chief by APP

From 24.06.2011 to 05.08.2012, I had been working as Police Sub-Inspector in Kempanahalli Police station. On 31.07.2011 at 9.15 AM, the complainant came and gave written complaint. I registered a case and sent FIR to the court. ExP1 is the complaint. ExP1(b) is my signature. FIR is marked as ExP4, my signature is marked as ExP4(a). On the same day, I went to the place of incident and drew mahazar in the place of incident from 10.45 to 11.45 AM. PW1 showed the place of incident. ExP2 is the spot mahazar, my signature is marked as ExP2(c). On the said spot, Karimani and Gold Beads were seized. ExP3 is the photograph of said Gold items. I submitted PF to the court and I have handed over the further investigation to CW19.

Cross examination by Advocate for accused

It is not true to suggest that PW1 has not lodged ExP1 complaint. It is not true to suggest that I did not draw mahazar at ExP2.

Re-examination: Nil

R.O.I & A.C. Sd/- JMFC

CW8 – PW5 – Mangala. Duly sworn on 09.10.2012

Examination in Chief by APP:

Since 4 years, I have been working as Manager in Mangalajyothi gold loan shop at Shivajihalli. On 18.08.2011, Kempanahalli Police came to our shop along with one person who is now in video conference and asked to produce gold ornaments pledged in our shop. I have identified the accused Nawaz Ahmed and produced one gold chain. Police seized gold chain by drawing mahazar, marked as ExP5, now my signature is marked as ExP5(a).

Cross examination by Advocate for accused

I have not produced any document regarding my appointment as Manager of Mangalajyothi gold loan shop, Shivajihalli. Accused came with another person to pledge gold chain. We used to enquire about the ownership of gold items before pledging the same. We issued receipt to Nawaz Ahmed Police did not call me to the police station. ExP5 was drawn by the police after making an enquiry. Two persons present in the shop signed at ExP5. Police weighed the gold chain. It is not true to suggest that I am deposing falsely to help the police.

Re-examination: Nil.

R.O.I & A.C. Sd/- JMFC

CW19 – PW6 – Rajendra Kumar, Police Inspector, Bengaluru. Duly sworn on 09.10.2012

Examination in Chief by APP:

I was working as Police Inspector in Kempanahalli Police station from July 2011 to September 2013. I have received the file of Crime No.173/2011 for further investigation from CW18. I had deputed police staff to trace the accused. On 16.08.2011 at 4.30 PM on receipt of credible information, I went to Bombay Bazaar along with CW4, CW12 and 15 and found one person in a suspicious manner standing near Bike in front of Bombay Bazaar. We caught hold him. He could not give satisfactory answer for his presence at the said spot. He disclosed his name as Nawaz Ahmed. We brought him to the police station along with bike bearing No. KA18 MX 4090 and we seized the bike by drawing mahazar ExP6, my signature is ExP6(a). I have recorded voluntary statement of accused as per ExP7. I have seized Mangalajyothi gold loan receipt from the accused for having pledged gold chain weighing 23.4 grams for Rs.43,500/- under Ex.P6 mahazar.

On 17.08.2011, I have produced the accused before the court and obtained him to police custody. On 18.08.2011, the accused took us to Shivanahalli, House No.58/3 and Mani Hanumayya identified the accused and produced gold chain weighing 27 grams, godhi design chain 16.6 grams. We seized all the items in the presence of Panchas Bheemaraj and Mani Hanumayya by drawing mahazar ExP8.

On the same day, accused took me and CW10 Ravi to Mangalajyothi gold loan shop at Shivajihalli and PW5 identified CW10 and accused. We seized 23.4 grams of Batani design gold chain in the presence of CW9 and PW5. Accused pledged the stolen gold items through 0W10 Ravi in Mangalajyothi gold loan shop. I have recorded the statement of CW5, 6, 7, 9, 10 & 11 & PW5. Mangalyasara pertaining to this case is MO1. Mangalajyothi gold loan shop receipt is marked as ExP9.

On 19.08.2011, the accused took us to the shop of Anand and he identified the accused and produced gold Mangalya weighing 5 grams, 6 grams of Mangalya, 2 grams of 6 Gold Beads. We seized those items by drawing mahazar. I gave requisition to Tahsildar Smt. Suman to conduct Test identification parade. She completed procedure of Test identification parade. I have secured complainant to conduct

test identification parade. Tahsildar gave report of test identification parade. After, completion/of investigation, I have filed charge sheet against accused beforq the court.

Cross examination by Advocate for accused:

It is not true to suggest that I have not recorded voluntary statement of accused and seized gold items by drawing mahazar. It is not true to suggest that I have not gone to Bombay Bazaar along with staff and arrested accused. I tried to secure public as panch witnesses where I arrested accused. It is not true to suggest that I am deposing falsely and filed false charge sheet against accused.

Re-examination: Nil

R.O.I & A.C. Sd/- JMFC

PW7 – Suman, Tahsildar, Bengaluru. Duly sworn on 09.10.2012

Examination in Chief by APP:

From 17.02.2012 to 31.01.2013, I was working as an Executive Magistrate in Kempanahalli Taluk. On 28.02.2012, Police Inspector of Kempanahalli Police station gave requisition to conduct test identification parade of accused Nawaz Ahmed @ Naya.z. The said requisition is marked as ExP10. On 05.03.2012, I have issued notice to complainant Venkatalaxmi and requested her to be present in the Central Prison at 3.00 PM on 12.03.2012. The said notice is marked as ExP11. I went to Central Prison at 2.30 PM on 12.03.2012.1 requested the Jail authorities to secure 5 under trial Prisoners. I asked Venkatalaxmi to sit in a separate room. I had asked accused Nawaz Ahmed to stand in the middle of 5 under Trial Prisoners. Accused Nawaz Ahmed was 4th person in the row from the left side. I requested Venkatalaxmi to identify the culprit. Venkatalaxmi identified 4th person from left side as culprit. 2nd time, I had asked Venkatalaimi to go out and I re-shuffled the under Trial Prisoners and accused Nawaz Ahmed and I kept Nawaz Ahmed at Sl. No.3 in a row from left side. CW1 Venkatalaxmi identified accused Nawaz Ahmed. I had prepared a report and sent to the court. Now the envelope is opened in the open court and I see my report, marked as ExP12.

Cross examination by Advocate for accused:

It is not true to suggest that I have not conducted Test identification parade. It is not true to suggest that I am deposing falsely. It is not true to suggest that I have not followed proper procedure in conducting Test identification Parade.

Re-examination: Nil

R.O.I & A.C. Sd/- JMFC

Documents

Exhibit	Document
ExP1	Complaint lodged by complainant Venkatalaxmi
ExP2	Spot Mahazar dated 31.07.2011 conducted at Sunrise colony, 2nd cross, Kempanahalli
ExP3	Photograph of Mangalyasara MO1
ExP4	First information report
ExP5	Seizure Mahazar dated 18.08.2011 conducted at Mangalajyothi gold loan shop
ExP6	Seizure mahazar dated 16.08.2011 conducted at Kempanahalli police station seizing pulsar bike No.KA18 MX 4090 and Mangalajyothi gold loan receipt

ExP7	Voluntary statement of accused
ExP8	Seizure mahazar dated 18.08.2011 conducted in the house of Mani Hanumayya, House No.58/3, Shivanahalli
ExP9	Receipt issued by Mangalajyothi gold loan shop for pledging 23.4 grams gold chain for Rs.43,500/-.
ExP10	Requisition given by Police Inspector, Kempanahalli Police station to Executive Magistrate, Kempanahalli taluk to conduct Test identification parade.
ExP11	Notice issued by Executive Magistrate to complainant Venkatalaxmi
ExP12	Report of Executive Magistrate.

De Facto IAS