Karnataka Civil Judge (Mains) 2019 (September notification cycle, CJR 13/2019)

Law Paper III · compulsory paper

Framing of charges and writing of a Judgment in Criminal Case · Date: 10.11.2019 · Time: 2.00 PM to 5.00 PM · Max Marks: 100

1. Frame proper plea in the following case. 15 Marks

C.C. No.470/2017

Complainant: State by Hassan Rural Police

And

Accused: Puttaswamy

It is alleged in the charge sheet that, on 05.04.2015 at about 9.30 p.m. within the jurisdiction of Hassan Rural Police Station, near Devarahalli gate on Hassan Dudda Road, the accused being the driver of a goods auto bearing registration number KA13 S 5482 drove the same in a rash and negligent manner by endangering human life and dashed the goods auto to a tree on the side of the road, due to which, one Smt Kamalamma, who was traveling in the goods auto, sustained fatal injuries and died on the way to the hospital, CW1- Venkataswamy, who was traveling in the goods auto, sustained grievous injuries and CW4 - Rajendra and CW5 - Prabhavathi, who were traveling in the said goods auto, sustained simple injuries. With these allegations, the Police Inspector of Hassan Rural Police Station has filed the charge sheet against the accused.

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

It is alleged in the charge sheet that on 09.07.2015 during night hours, when the complainant and his family members have gone out by locking the doors of their dwelling house at Bapuji colony in Davangere town, within the jurisdiction of Davangere Extension Police Station, the accused committed lurking house trespass into the house of the complainant by removing the tiles of the kitchen room and dishonestly committed the theft of cash of Rs.55,000/- and two mobile phones and two gold bangles, which were kept in the house. With these allegations the Police Inspector of Davangere Extension Police Station filed the charge sheet against the accused.

3. Write a considered judgment in the following case by giving valid and cogent reasons assuming rival contentions and documents of the prosecution from the facts and evidence narrated below. 70 Marks

JUDICIAL MAGISTRATE OF FIRST CLASS, HUBLI
CC No.850/2015

Complainant: State of Karnataka, Represented by Kamaripet Police Station

Vs

Accused: Suresha K.G., S/o Giriyanna, Aged 30 years, Residing at Nehru Colony, Kalyan nagar, Old Hubli, Hubli.

Facts of the Case

On 12.04.2015 at about 11-00 a.m. at Nehru Colony, Kalyanagara, Old Hubli, Hubli, within the jurisdiction of Kamaripet Police Station, accused picked up a quarrel with CW1 Jalajamma and abused

her in filthy language and assaulted her with hands all over her body and dragged her by holding her saree and tore her blouse, with an intention to outrage her modesty and posed threat to kill CW1.

On the basis of the complaint lodged by CW1 Jalajamma, Kamaripet Police have registered the FIR in Crime No.127/2015 and the Investigating Officer proceeded to the spot, drew the mahazar in the presence of panchas and seized the torn blouse of CW1, recorded the statement of witnesses and after obtaining the wound certificate of CW1 and after completion of investigation, CW9 filed the charge sheet against the accused by alleging that accused has committed the offence punishable under Section 504, 323, 354 and 506 of the Indian Penal Code.

The court took cognizance of the case. The accused appeared before the court and was enlarged on bail. A copy of the charge sheet and its enclosures were furnished to the accused. Charges were framed against the accused. He pleaded not guilty and claimed to be tried.

In order to prove the guilt of the accused, the prosecution let in the following evidence before the court.

CW1 - Jalajamma

CW1, who was examined as PW1, deposed that accused is constructing a new house by the side of their house and while constructing the house, he has damaged the staircase of her house. PW1 further deposed that on 12.04.2015 at about 11.00 a.m. near their house at Kalyan nagar, Nehru Colony, she asked the accused to repair the staircase damaged by him. PW1 further deposed that accused picked up a quarrel with her and abused her in a filthy language and assaulted her with hand on her neck and back. PW1 further deposed that accused dragged her and tore her blouse and thereby tried to outrage her modesty. When their neighbour Jayanthi came to the spot to pacify the quarrel, accused left the place by posing a threat to her. PW1 further deposed that she appeared before the Kamaripet Police Station on the same day and lodged a complaint as per Ex.P1. PW1 further deposed that the police have sent her to KIMS Hospital, Hubli wherein she was treated by the doctor. PW1 further deposed that on the next day of the incident police came to the spot and she has shown the incident spot to the police and police have drawn a mahazar in the presence of their neighbours and she has handed over her torn blouse to the police. PW1 identified the torn blouse which was marked as MO1.

During the course of her cross examination by the counsel for the accused, PW1 admitted that she has filed a Civil Suit against the accused alleging the encroachment of her site by the accused while constructing the house. PW1 also admitted in her cross examination that in the said suit the application filed by her seeking an order of temporary injunction was dismissed by the civil court. PW1 denied the suggestion that she has filed a false complaint against the accused, since she has failed to get order in her favour from the civil court. PW1 showed ignorance as to what are the abusive words uttered by the accused at the time of the alleged incident. PW1 stated during the course of her cross examination that her neighbour Jayanthi and her husband Subramanya were present at the time of the alleged incident. PW1 further admitted that there were about 25 houses and 4 shops near by the place of the alleged incident. PW1 further stated that apart from Jayanthi and her husband, no other person came to the spot. PW1 admitted that at about 11.00 a.m there will be movement of public on the road in front of her house. PW1 stated that she sustained injury on her cheek and no other injuries. PW1 denied the suggestion that accused has not abused her and has not assaulted her and has not tried to outrage her modesty and has not threatened her. PW1 denied the suggestion that due to the enemity

between her and the accused regarding encroachment of property and construction of house, she has lodged a false complaint against the accused and now deposing falsely before the court.

CW2 - Ningegowda

CW2 Ningegowda, who was examined before the court as PW2 deposed that on 13.04.2015 at about 3.30 p.m. Kamaripet Police came near the house of CW1 Jalajamma and drew a mahazar as per Ex.P2 in respect of the incident which took place on the previous day. PW2 further deposed that while drawing the mahazar CW1 Jalajamma produced her torn blouse and the police have seized the said blouse and PW2 has identified the same as MO1. PW2 identified his signature on Ex.P2 mahazar and same was marked as Ex.P2(a).

During the course of cross examination by the counsel for the accused PW2 denied that CW1 is his relative. PW2 admitted that his house is situated at Santhosh nagar, Hubli which is about 4 kms. away from the incident spot. PW2 also admitted that he was not present at the time of the alleged incident. PW2 also admitted that there were about 25 houses and 4 shops in and around the alleged incident spot. PW2 denied the suggestion that no mahazar was drawn and MO1 was not seized in his presence. PW2 also denied the suggestion that since he is the relative of CW1 he is deposing falsely in order to help CW1.

CW4 - Jayanthi

CW4 Jayanthi, who was examined as PW3 deposed that she knows CW1 Jalajamma and the accused as they were neighbours and residing in the same locality. PW3 further deposed that about 2 years back at 10.30 a.m. near the house of CW1 Jalajamma, there was a quarrel between CW1 and the accused. PW3 further deposed that after hearing the sound she came to the spot and saw the accused abusing CW1 and dragging her by holding her saree. PW3 further deposed that when she tried to intervene and pacify the quarrel, the accused ran away by threatening CW1. PW3 further deposed that the blouse of CW1 was torn and she went to the police station and lodged a complaint. PW3 identified the torn blouse (MO1).

PW3 during the course of her cross examination by the counsel for the accused admitted that she and CW1 are friends and they belong to the same community. PW3 also admitted that the accused belong to some other community and there was dispute between CW1 and accused regarding the encroachment of the site. PW3 also admitted that she had helped CW1 in filing the Civil Suit against the accused. PW3 admitted that there are about 25 houses and 4 shops in and around the incident spot. PW3 deposed that about 25 persons gathered at the time of alleged incident. PW3 showed ignorance as to the words used by the accused to abuse and to threaten CW1. PW3 showed ignorance about the name of other persons who were present at the time of the alleged incident. PW3 denied the suggestion that because of her friendship with CW1 she is deposing falsely.

CW6 - Dr.M.G.Hiremath

CW6 Dr.M.G.Hiremath who was examined as PW4 deposed that he was working as a Medical Officer in KIMS hospital, Hubli from the year 2012. PW4 further deposed that on 12.04.2015 at about 5.00 p.m., when he was on duty at KIMS hospital, Hubli, CW1 appeared before him for taking treatment for the injury sustained due to the assault. PW4 further deposed that on his examination, he found abrasion near the left side of the neck of CW1 and a contusion wound on her back. PW4 further deposed that those injuries are simple in nature and he has issued a wound certificate as per Ex.P3.

PW4 opined that the injury found in CW1 can be caused if a person is assaulted with hands and dragged to fall on the ground.

During the course of his cross examination by the counsel for the accused PW4 stated that Kamaripet Police have brought CW1 to the hospital. PW4 further stated that he has not observed about the colour of the blouse of CW1 and as to whether it is torn or not. PW4 admitted that the injury found on CW1 may be caused if a person slips and falls on a hard surface.

CW5 - Nanjundaswamy

CW5 Nanjundaswamy, who was examined as PW5, deposed that he has not seen the incident and he was not aware about the accused abusing CW1, assaulting her, trying to outrage the modesty of CW1 and posing threat to her. PW5 further deposed that he has not given any statement before the Kamaripet Police about the incident.

PW5 was treated as a hosbile witness by the Learned Assistant Public Prosecutor and he was cross examined with the permission of the court. During the course of cross examination by the Learned Assistant Public Prosecutor, PW5 denied about he witnessing the alleged incident and accused abusing CW1 with filthy language and assaulting her with hands, outraging her modesty by dragging her and posing threat to kill her. PW5 denied about he giving the statement before the Kamaripet Police as per Ex.P4.

CW9 - K.Chandrashekar

CW9 K.Chandrashekar is the Inspector of Police at Kamaripet Police Station and he was examined as PW6. PW6 in his examination-in-chief deposed that on 12.04.2015 at about 2.00 p.m. when he was in the Police Station CW1 Jalajamma came before him and lodged a complaint as per Ex.P1 on the basis of which, he has registered the FIR in Crime No.127/2015 and sent the original FIR to the magistrate and copy of the same to his superior officials. FIR is marked as Ex.P5 and signature of PW6 is marked as per Ex.P5(a). PW6 further deposed that he sent the injured CW1 to the KIMS Hospital along with a lady constable/CW7. PW6 further deposed that on 13.04.2015 at about 3.00 p.m. he visited the incident spot and CW1 showed the spot to him and in the presence of CW2 and 3, he has drawn a mahazar as per Ex.P2. PW6 further deposed that while drawing the mahazar CW1 produced her torn blouse and he seized the same as MO1. PW6 further deposed that he has recorded the statement of CW4 and 5. CW5 has given statement before him as per Ex.P4. PW6 further deposed that he has continued the further investigation and after receiving the wound certificate of CW1 from CW6 as per Ex.P3 and after completion of investigation he filed the charge sheet against the accused.

PW6 during the course of his cross examination admitted that he was aware about the dispute between CW1 and the accused regarding the encroachment of site and the civil suit between them. PW6 further admitted that there were about 25 houses and 4 shops in and around the incident spot. PW6 further admitted that he has not made an attempt to record the statement of the inmates of those houses and shop owners. PW6 denied the suggestion that CW 4 and 5 are not the neighbours of CW1. PW6 denied the suggestion that he has registered a false case against the accused on the basis of the false complaint lodged by CW1 due to the civil dispute between them. PW6 denied the suggestion that he has not gone to the spot and has not drawn any mahazar and has not seized the torn blouse from the spot. PW6 denied that MO1 blouse was given by CW1 in the police station in order to register a false case against the accused. PW6 denied the suggestion that CW 4 and 5 have not given any statement before him. PW6 also denied the suggestion that Ex.P3 wound certificate was created for filing this false case.

Statement of the accused under Section 313 of Code of Criminal Procedure

All the incriminating evidence appearing against the accused was read over to him and the accused denied them as false and stated that due to the civil dispute CW1 has lodged a false complaint against him.

ARGUMENTS FOR THE PROSECUTION

The Learned Assistant Public Prosecutor has argued that PW1 to 3 have deposed about the alleged incident, drawing of mahazar and seizure of MO1 and their evidence is cogent and consistent. The evidence of PW1 to 3 is corroborated and supported by the evidence of PW4 and wound certificate and it is also supported by the evidence of PW6. It was further argued by the Learned Assistant Public Prosecutor that the evidence let in by the prosecution is free from infirmities and would establish the case of the prosecution beyond all reasonable doubt. Therefore, Learned Assistant Public Prosecutor prayed to convict the accused.

ARGUMENTS FOR THE ACCUSED

Learned counsel for the accused argued that the evidence let in by the prosecution is full of material contradictions, variations and discrepancies. It was further argued that because of the civil dispute between them, CW1 has lodged a false complaint against the accused. It was further argued that though independent witnesses were available the Investigating Officer has secured only the relatives of the complainant as eye witnesses and witness for the mahazar and they are the interested witnesses. It was further argued that there is no consistency between the evidence of the injured complainant and the medical evidence regarding the alleged injury caused to CW1. On these grounds learned counsel for the accused prayed for acquittal of the accused by extending the benefit of doubt.