Karnataka Civil Judge (Mains) 2020

Law Paper III · compulsory paper

Framing of charges and writing of a Judgment in Criminal Case · Date: 29.11.2020 · Max. Marks: 100 · Time: 2.30 PM to 5.30 PM

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

C.C. No.78/2015

Complainant: State by Sankeshwara Police Station
And
Accused: Samiullah

It is alleged in the charge sheet that on 06.11.2014 at about 7.30 p.m., near Government Higher Primary School, Sankeshwar, on Sankeshwar-Nippani Road, within the jurisdiction of Sankeshwar Police Station, the accused, being the driver of a Lorry bearing Registration Number KA-25-B-2027, drove the same in a rash and negligent manner, by endangering human life and dashed the Lorry to a motor bike bearing Registration Number KA-22-M-676 coming from the opposite direction, due to which, one Shivaraju, who was the pillion rider in the motor bike, sustained fatal injuries and died on the way to the hospital and CW1 Ramesha, who was the riding the motor bike, sustained grievous injuries and the accused, after causing the accident, ran away from the spot and failed to intimate the jurisdictional police about the accident and also failed provide medical treatment to the injured. With these allegations, Police Inspector of Sankeshwar Police Station has filed 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

C.C. No.407/2012

Complainant: State by Beluru Town Police.
And
Accused: Puttaswamy.

It is alleged in the charge sheet that on 13.06.2011 at about 3.30 p.m. at Kambihalli Village, on the public Road in front of mosque, within the jurisdiction of Beluru Town Police Station, when CW1 was going towards his house, accused obstructed CW1 from proceeding further, picked up the quarrel with him, abused CW1 in filthy language and fisted CW1 with hands on his face, due to which two teeths of CW1 broken down and when CW2 tried to intervene to pacify the quarrel, accused assaulted him with hands, causing hurt and simply injuries to him and accused posed threat to kill CW1 and 2. With these allegations, Police Inspector of Beluru Town Police Station has filed 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, SHIKARIPURA

C.C. No.847/2012

Complainant: State by Shikaripura Town Police Station
Vs

Accused: Thilak, aged 24 years, S/o Krishnappa, R/o Issuru, Shikaripura Taluk, Shivamogga District.

Facts of the Case:

In between 09.07.2012 and 12.07.2012, at Issur village, when the complainant and his family members have gone out of their dwelling house by locking the door, accused committed lurking house trespass by entering into the house by removing the tiles and dishonestly committed the theft of cash of Rs.88,000/- and one pair of gold bangle and one gold ring, which were kept in a almariah in the bed room of their house.

On the basis of the complaint lodged by CW1 Dilip, Shikaripura Town Police have registered the FIR in Crime No.228/2012 on 15.07.2012 and the Investigating Officer proceeded to the spot, drawn the spot mahazar, recorded the statement of witnesses and arrested the accused on 19.07.2012 and recorded his voluntary statement, on the basis of which, seized one pair of gold bangle and a gold ring and an amount of Rs.30,000/- from his house and after investigation, CW8 filed the charge sheet against the accused by alleging that the accused has committed the offence punishable under Section 454 and 380 of Indian Penal Code.

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

In order to prove the guilt of the accused, prosecution let in following evidence before the court. CW1 - Dilip CW1, who was examined as PW1, deposed that on 13.07.2012 at about 7.00 p.m. when they came back to their house at Issuru Village, after attending marriage function at Hassan, they found 3 to 4 tiles of their house were removed and there is theft Of cash of Rs.88,000/- and one pair of gold bangle and one gold ring kept in their house. PW1 further deposed that on 15.07.2012, he appeared before the Shikaripura Town Police Station and lodged a complaint as per Ex.P1. PW1 further deposed that on the same day, police came to his house and seen the spot and drawn the mahazar as per Ex.P2. PW1 further deposed that about 4 to 5 days later, police told him that accused was arrested and cash of Rs.30,000/- and gold bangles and ring were recovered from him and police have shown those articles to him and also the accused at the police station. PW1 has identified the cash of Rs.30,000/- as M01, one pair of gold bangles as M02 and one gold ring as M03. PW1 also identified the accused before the court.

During the course of his cross examination by the counsel for the accused, PW1 admitted that he owns 15 acres of coffee estate in Sakleshpura Taluk and the accused was working as a driver under him in the said estate. PW1 denied the suggestion that he has not paid the salary to the accused and in this regard, accused has filed complaint before the Sakleshpura Police. PW1 denied the suggestion that due to the said enmity, he has lodged a false complaint alleging that there was theft in his house. PW1 admitted that there are four houses and two shops near by his house and a main road is passing in front of their house, where there is movement of vehicles and publics at all the time PW1 admitted that apart from his family members, there are workers and maids staying in their house. PW1 denied that MO1 to 3 have not been recovered from the accused. PW1 also denied that he has handed over MO1 to 3 to the police, in order to register a false case against the accused. PW1 denied the suggestion that accused has not committed the theft in their house. CW2- Deepak CW2, who was examined as PW2, deposed that there was theft of cash and gold ornaments from the house of CW1 during July 2012 and in this regard, CW1 has lodged a complaint before the Shikaripura Town Police. PW2 further deposed

that Shikaripura Town Police have came to the house of CW1 and drawn a mahazar in his presence as per Ex.P2. PW2 further deposed that while drawing the mahazar, police have noticed the removal of tiles of the house of CW1. PW2 further deposed that about 4 days after this incident, Shikaripura Police have asked him to come to the house of the accused at Mukthihalli village and seized the amount of Rs.30,000/-, one pair of gold bangle and one gold ring, which were kept by the accused in his house and drawn a seizure mahazar as per Ex.P3. PW2 has identified the MO1 to 3.

During the course of his cross examination, PW2 admitted that he was working as agent under CW1 for selling the coffee grown in his estate. PW2 admitted that the accused was working as a driver under CW1 in his coffee estate at Saldeshpura. PW2 denied the suggestion that regarding payment of salary to the accused, there was dispute between accused and CW1 and in this regard accused has lodged a complaint before the Sakleshpura Police against CW1. PW2 deposed that there were three bed rooms in the house of CW1. PW2 shown his inability to say from which bed room, MO1 to 3 were stolen. PW2 admitted that there were other houses adjacent to the house of the accused at Mukthihalli. PW2 shown ignorance as to who were present at the time of drawing the Ex.P2 mahazar in the house of CW1 and Ex.P3 mahazar in the house of accused. PW2 denied the suggestion that MO1 to 3 were not recovered from the house of the accused. PW2 denied the suggestion that CW1 has lodged a false complaint and in order to help him, he deposed falsely against the accused. CW4 - Hulivappa Gowda CW4, who was examined as PW3, deposed that about 3 months back, police have came to the house of the accused at Mukthihalli village, along with the accused and seized the amount of Rs.30,000/-, one pair of gold bangle and one gold ring and drawn a mahazar as per Ex.P3. PW3 has identified the accused and also MO1 to 3.

During the course of his cross examination, PW3 admitted that he is the resident of Shiralkoppa Town and Mukthihalli Village is about 10 knis from Shiralkoppa. PW3 admitted that CW1 has asked him to go with the police to Mukthihalli Village. PW3 admitted that there are about 5 to 6 houses adjacent to the house of the accused at Mukthihalli village. PW3 shown ignorance to name the person, who was present in the house of the accused while drawing the Ex.P3 mahazar. PW3 denied that he has not gone to the house of the accused and MO1 to 3 were not seized from the house of the accused in his presence and no mahazar was drawn. PW3 denied the suggestion that he has put the signature for the Ex.P3 mahazar in the Shikaripura Town Police Station. CW8 - Panchaksharappa CW8, who was examined as PW4, deposed that during the year 2011 and 2012, he was working as an Inspector of Police in the Shikaripura Town Police Station. PW4 further deposed that on 15.07.2012 at about 9.30 a.m. CW1 appeared before the police station and lodged a complaint as per Ex.P1, on the basis of which he has registered the FIR as per Ex.P4. PW4 further deposed that on the same day, at about 2.00 p.m. he has gone to the house of CW1 and drawn a mahazar as per Ex.P2 in the presence of CW2 and 3 and prepared a sketch of the spot as per Ex.P5. PW4 further deposed that on 16.07.2012, he continued the further investigation and recorded the statement of CW2 and 3. PW4 further deposed that on 19.07.2012 CW7 produced the accused before him with a report as per Ex.P6 and he arrested the accused and recorded his voluntary statement as per Ex.P7. PW4 further deposed that, as per his voluntary statement, accused took them to his house at Mukthihalli Village and produced an amount of Rs.30,000/- one pair of gold bangle and one gold ring, which were stolen by him from the house of CW1 and he has recovered the same by drawing the mahazar as per Ex.P3 in the presence of CW2 and 4. PW4 identified the MO1 to 3. PW4 further deposed that he produced the accused before the court on the same day and accused was remanded to the judicial custody. PW4 further deposed that on

20.07.2012 he recorded the statement of CW4 to 6 and further statement of CW I. PW4 further deposed that he continued the investigation and obtained the property extract of the house of CW1 and after completion of investigation, he filed the charge sheet against the accused.

During the course of his cross examination, PW4 shown ignorance about the dispute between the accused and CW1, regarding payment of salary to accused, when he was working as a _ _ driver under him in his coffee estate at Sakleshpura. PW4 denied the suggestion that accused has not given any such voluntary statement before him. PW4 denied the suggestion that MO1 to 3 were given to him by CW1 to register a false case against the accused. PW4 denied the suggestion that they have not gone to the house of CW1 and not drawn any spot mahazar or sketch at the spot. PW4 denied the suggestion that accused has not taken him to his house and MO1 to 3 were not recovered from the house of the accused. PW4 denied the suggestion that both spot and seizure mahazars were prepared at the police station and signatures of the witnesses were obtained at the police station. PW4 denied the suggestion that at the instigation of CW1 he has registered the false case against the accused and deposed falsely before the court.

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 accused denied them as false and stated that he was working as a driver under CW1 in his coffee estate at Sakleshpura and three months salary was due to him. Accused further stated that when he demanded the salary from CW1, he has not paid the same and when he complained about the same to the Sakleshpura Police, CW1 lodged a false complaint against him. Accused has produced the copy of the complaint lodged by him before the Sakleshpura Police.

ARGUMENTS FOR THE PROSECUTION

The learned Assistant Public Prosecutor has argued that the prosecution case is based upon the circumstantial evidence. The prosecution has to prove the two important circumstances to establish the guilt of the accused i.e. theft in the house of CW.1 and recovery of stolen article from the accused. The theft in the house of CW1 was proved with the evidence of CW1/PW1, CW2/PW2 and CW8/PW4 and also corroborated with spot mahazar as per Ex.P2 and spot sketch as per Ex.P5. The second and important circumstances of recovery of stolen articles from the accused is also proved by the prosecution with the evidence of CW2/PW2 and CW4/PW3. Said recovery is made in pursuance to the voluntary statement given by the accused as per Ex.P7. It was further argued that though all these witnesses were cross examined by the learned counsel for the accused, no material aspects were brought out from their cross examination. It was further argued by the learned Assistant Public Prosecutor that the evidence let in by the prosecution is free from any infirmities and would establish the case of the prosecution beyond all reasonable doubt. Therefore, the learned Assistant Public Prosecutor prayed to convict the accused.

ARGUMENTS FOR THE ACCUSED

The learned counsel for the accused argued that evidence let in by the prosecution is full of material contradictions, variations and discrepancies. It was further argued that there is enmity between the accused and CW1 regarding payment of salary, as admittedly the accused was working as a, driver under CW1 in his coffee estate. Because of the said enmity, CW1 has lodged a false complaint against

the accused. It was further argued by the Learned counsel for the accused that the prosecution witnesses are all interested witnesses and though independent witnesses were available, the Investigating Officer has secured only the friends and agent of CW1 as witness for the spot and seizure mahazar. It was further argued by the Counsel for the accused that there is no direct evidence to prove the guilt of the accused and evidence let in by the prosecution miserably failed to connect the circumstances to bring home the guilt of the accused. On all these grounds, learned counsel for the accused prayed to acquit the accused by extending the benefit of doubt to him.