# Karnataka Civil Judge (Mains) 2021

## Law Paper III · compulsory paper

Framing of charges and writing of Judgment in Criminal Case · Date: 01.10.2021 · Time: 2.30 PM to 5.30 PM · Max. Marks: 100

1. Frame proper plea in the following case. 10 Marks

**C C No.78/2011**

Complainant: State by Hubli Vidyanagara Police Station
And
Accused: Suresh Gowda

It is alleged in the charge sheet that, on 20.07.2010 at about 05.30 p.m. on the small bridge at Unkal Tank Bund, on Hubli-Dharwad Road, accused, being the driver of a KSRTC bus bearing Registration Number KA25-F-7187, by driving the same in a rash and negligent manner by endangering human life, dashed to a bike, which was coming from the opposite direction, due to which, one Raghava, who was riding the motor bike, sustained fatal injuries and died at the spot and CW2, who is the pillion rider in the bike, sustained grievous injuries. With these allegations, Inspector of Police of Hubli Vidyanagara Police Station filed the charge sheet against the accused.

2. Frame appropriate charge for the Trial of accused on the basis of the following charge sheet material. 20 Marks

**CC No.688/2018**

Complainant: State by Honnavara Police.
And
Accused: 1) Ranganatha. 2) Somanatha.

It was alleged in the charge sheet that on 12.04.2018 at about 3.00 p.m. accused No.1 and 2, with common intention, trespassed into the house of CW1 Sundara, situated at Gandhinagara, Honnavara, within the jurisdiction of Honnavara Police Station and picked up the quarrel with CW1 and abused him in filthy language and accused No.1 assaulted CW.1 with club, causing simple injuries on his left shoulder and when the wife of CW1, Kamala (CW2) intervened to pacify the quarrel, the accused No.2 dragged her by holding her saree and tore her blouse with an intention to outrage her modesty and accused No.1 and 2 posed threat to kill CW1 and 2 and while going back, accused pelted stones to the house of CW1, broken the tiles and glasses of the window, causing loss to the tune of Rs.7,000/- to CW.1. With these allegations, Inspector of Police of Honnavara Police Station filed the charge sheet against the accused No.1 and 2.

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, DEVANAHALLI**

CC No.1078/2012

Complainant: State by Devanahalli Police Station
Vs
Accused: Dharmaraja, Aged 28 years, S/o Chanappa, R/ of Bagalakunte, Doddaballapura Taluk, Bengaluru Rural District. (Accused is in judicial custody)

**Facts of the Case:**

On 08.01.2012, at about 6.45 p.m., when CW1 and 2 were coming back to their house in their motor bike, after visiting Ghati Subramanya Temple, in front of KMF farm at Baguru village, within the jurisdiction of Devanahalli Police Station, accused came in a motorbike bearing No.KA51-J-5898 and stopped the motorbike, in which CW1 and 2 were going and asked them to give whatever they have, by pointing out a knife to them and they were frightened and CW1 gave his gold ring, where as CW2 gave her mangalya chain to the accused and accused thrown the knife at the spot and gone in his motor bike.

On the basis of the complaint lodged by CW1 Panduranga, Devanahalli Police have registered the FIR in Crime No.28/2012 and the Investigating Officer proceeded to the spot, drawn the spot mahazar, seized knife from the spot and recorded the statement of witnesses and arrested the accused and recorded his voluntary statement, on the basis of which, he seized gold ring and mangalya chain from the shop of CW.7 and after investigation, CW10 filed the charge sheet against the accused, by alleging that the accused has committed the offence punishable under Section 384 of Indian Penal Code.

The Court took the cognizance of the case and accused produced before the Court was remanded to the judicial custody. 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 - Panduranga**

CW1, who was examined as PW1, deposed that on 08.01.2012 at about 6.30 p.m., when he and his wife CW2 were returning to their house in a motorbike, after visiting Ghati Subramanya temple, near KMF farm in Baguru village, a person came on a motorbike and attacked them. PW1 further deposed that said person pointed out a knife towards them and asked them to give the ornaments, which were with them and they frightened and handed over a gold ring and mangalya chain to that person. PW1 further deposed that on the next day, he went to Devanahalli Police Station and lodged a complaint as per Ex.P1 and police came to the spot and drawn a mahazar as per Ex.P2 and seized the knife from the spot. PW1 further deposed that about 3 months after the incident, police have informed him that they have arrested the accused and when he gone to the police station, police shown the accused to him and also their ornaments and he identified the same. PW1 has identified knife as MO1, gold ring as MO2 and mangalya chain as MO3. PW1 has also identified accused before the Court, as person who attacked them and forcibly taken gold ornaments from them.

During the course of his cross-examination by the counsel for the accused, PW1 deposed that the alleged incident occurred at about 6.45 p.m. and there was dark at the spot, because of which he could not identify the face of that person. PW1 admitted that because of police showing the accused in the police station, he identified the accused as the person who taken the gold ornaments from them. PW1 deposed that there was no hurdle for him to lodge the complaint on the same evening, when the alleged incident taken place. PW1 denied the suggestion that he has lodged a false complaint and also denied the suggestion that police have not drawn any spot mahazar in his presence.

**CW2 - Manjula**

Wife of the complainant Smt.Manjula was examined as PW2 and she deposed that on 08.01.2012 at about 7.00 p.m. when she and her husband were returning to their house in a bike after visiting Ghati Subramanya temple, near KMF farm at Baguru village, a person came in a motorbike and stopped

their motor bike and pointed out a knife to them and asked them to gave the ornaments, which were with them. PW2 further deposed that being afraid, they gave gold ring and mangalya chain to that person and after taking those ornaments, he gone away by throwing the knife. PW2 further deposed that they returned to their house and on next day, her husband lodged complaint before the Devanahalli Police Station. PW2 further deposed that about 4 months after the incident, police have shown the accused and their ornaments in the police station and told that the accused has snatched the gold ornaments from them. PW2 has identified the accused and also MO1 to 3.

During of her cross-examination, PW2 admitted that the alleged incident took place at about 7.00 p.m. and there was dark at the incident spot and face of culprit could not be seen. PW2 further deposed that before the incident, she has not seen accused and only after police showing the accused, she has identified him. PW2 denied the suggestion that alleged incident has not taken place and MO2 and 3 does not belong to them.

**CW3 - Manjunatha**

CW3, who was examined as PW3, deposed that on 09.01.2012 Devanahalli police took him near KMF farm Baguru village, on Ghati Subramanya Temple Road and drawn a mahazar as per Ex.P2 and seized a knife from the spot. PW3 identified the MO1 knife.

PW3 deposed during the course of his cross-examination that he was not aware as to why the said mahazar was drawn. PW3 denied the suggestion that no such mahazar was drawn and he has put the signature for Ex.P2 mahazar in the Devanahalli Police Station.

**CW5 - Rangaswamy**

CW5, who was examined as PW4, deposed that no mahazar was drawn in his presence in the shop of CW7 by seizing the gold ornaments. PW4 identified his signatures on Ex.P3 seizure mahazar.

The learned Assistant Public Prosecutor has treated PW4 as a hostile witness and cross-examined him. Even during the course of cross-examination, PW4 denied the suggestion that accused took them to the shop of CW7 and shown the gold ornaments sold by him and MO.2 and 3 were seized by drawing the mahazar as per Ex.P3.

**CW7 - Shambulingegowda**

CW7, who was examined as PW5, deposed that during January 2012 accused came to his shop and pledged a gold ring and a mangalya chain and he paid a sum of Rs.50,000/- to him. PW5 further deposed that about 3 months after this incident Devanahalli Police came to his shop along with the accused and told him that the gold ornaments pledged by the accused were snatched by the accused and asked him to handover the gold ornaments pledged by the accused and same were seized by drawing a mahazar as per Ex.P3. PW5 identified the accused and MO2 and MO3.

During the course of his cross-examination, PW5 deposed that he is not running any money lending or jewellery business. PW5 denied the suggestion that accused has not pledged MO2 and 3 with him and he has not paid any amount to him. PW5 denied the suggestion that at the instance of Devanahalli Police, he deposing falsely.

**CW10 - Ramesh**

CW-10, who was examined as PW6, deposed that during the year 2011 and 2012, he was working as an Inspector of Police in Devahanahalli Police Station and on 09.01.2012 CW1 appeared before the police station and lodged a complaint as per Ex.P1, on the basis of which he has registered the FIR in Crime

No.28/2012 as per Ex.P4. PW6 further deposed that on the same day at about 3.00 p.m. he visited the spot and drawn the spot mahazar as per Ex.P2 in the presence of CW3 and 4 and seized MO1 knife from the spot. PW6 further deposed that he recorded the statement of CW2 and on 14.04.2012, CW9 produced the accused before him with a report as per Ex.P5 and he arrested the accused and recorded his voluntary statement as per Ex.P6. PW6 further deposed that as per his voluntary statement accused took them to the shop of CW7 at Hebbala and told that he has pledged the gold ornaments with CW7. PW6 further deposed that he has recovered the MO2 and 3 gold ornaments by drawing as seizure mahazar as per Ex.P3 in the presence of CW5 and 6. PW6 further deposed that he produced the accused before the court, who was remanded to the judicial custody and thereafter recorded the statement of CW5 to 9 and further statement of CW1 and 2. PW6 further deposed that after completion of investigation, he filed the charge sheet against the accused.

During the course of his cross-examination PW6 denied the suggestion that accused has not given any voluntary statement before him. PW6 denied the suggestion that MO1 to 3 were given to him by CW1 to register a false case against the accused. PW6 denied the suggestion that he has not gone to the spot and not drawn any spot mahazar. PW6 denied the suggestion that accused has not taken them to the shop of CW7 and MO2 and 3 were not recovered from the shop of CW7 and no mahazar was drawn. PW6 denied the suggestion that at the instigation of CW1 he has registered a 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 it is a false case registered against him to settle the personal vengeance by the complainant.

**ARGUMENTS FOR THE PROSECUTION**

The learned Assistant Public Prosecutor has argued that the prosecution case is based upon both the direct evidence and also the circumstantial evidence. It was further argued by the learned Assistant Public Prosecutor that both PW1 and 2 have deposed about the incident and identified the accused and MO1 to 3 and thereby the prosecution has proved the allegation against the accused by direct evidence. It was further argued by the learned Assistant Public Prosecutor that recovery of stolen ornaments was also proved with the evidence of PW5. Therefore there is circumstantial evidence also to prove the guilt of the accused. 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 to disbelieve their oral testimony. 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 by the counsel for the accused that both PW1 and 2 have not identified the accused and independent witness for the seizure mahazar has turned hostile. It was further argued by the counsel for 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.