

Karnataka High Court

State By Banavara Police Station vs Rajappa S/O Ningappa @ Ninganna on 21 July, 2008

Author: K.Sreedhar Rao R.B.Naik

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THE Hcx'aI.1; ma. %'re.«..13,',&m\$'.*%;z< cnmm % nu. % %%aj53%% Q!' 2002 BY '\$@; }LIE:EV.__\$TAE'.Imi ; .w9m:.r.zm'r (B Y.__\$;n'i 'G; : BE\$.V\$RI" smm. app > i!;\$0'32?2=%.n are .HI1*IGH'4E'P?s mm: % aawr 32 -329.35.

'axe zcamxawa VILLAGE 1 _ . 3 Jsmsrcaaa mzux ... IIESPONDEWT pmmwrm 3.. crmam, amass warns) ~.. ""I.'EI3 cnL.A. FILED U/S. svemataz *»_&'*+»£:r»';.:=.c BY craze STATE 9.9. mp. my swam PEAYIHG truer mm rzcxwsw cwm: my an * Pnzaszua 'Po cam? LEAVE we FILE AN APPEAL AGKHWST THE JUDGBHENT DT. 26.12.2001 PASSED Lg.

3'! man. c.J.w'n.mz> a JHEC...

c.c.1~:o. 212/2001, ACQUITTING ms newsman- ancussn ra rnz orrzxcz PUHISEABLS wig; 3gs_ or IPC. V rnsmmmm.mmM"¢mm□□¢m7k nmnm arms my. 1.1. .r._,.. nm.1*vz?;n THE FGLLOWIHGI -

annui#13W The state 13% é□hallenging tha order at ¢6\$aitt3éi:.' 21 K the prosecution that:1cz_#.' #!:»ant 10.00 a.m., at Knnal□ettée when PW.2--Gowraxma "§r\$aaV 'V water near the Water '£*. {m1: ,= garage a quarrel batsman the :5V.____'a.cc":u#£::! mallama) regarding 7\$;;L' '4ara.ter. on the spur of moment, §;§ é~_.5aid quarrel, the accused picksd-up lying nah.' by the placa of .c\$§:.*cu,rran<:e and assaulted PK. 1 on her head 3 " and pushed her. she fell down and

- 'swan: 'an nun-I|\uVu""\IrII\l'l Iliiulri NJ!" i\l'\KI'f\L""\¥\" QL.Q\$--i/'*"":'~1'L .-;-upn- 1-I-avail': Va-I I\l'I\l'f''If''I\l'

-Ina! u gygnu vr cu-«uuw-\:n:\n l'"lEL7I1 LUUKI OF KARNATAKA HIGH COURT OF KARNATAKA HIGH COURT OF KARNATAKA HtGH I suatainad fracture in her leg. is the dlaughtar-in-law of P8121.

supported the case o1' t_: _h9__ pz~¢3*s"e"c:.'i1'5':i."é-1:1'_ ' » has stated that. wharf, I:"«1'azj"a:é'.i.~:\$. '_v"~ . tnn.:the.r-u-in.-law were .i_"at:_e z';A A"":§;é\$'ar"j th£\$ public watar tagk, '£mr;cu4'ta'ti--.. and pi<:ked---u\$> quar1Eia7l_" PW.1 in filth? l'«1:1¢:'q*'}\$Sze£:.' -.

"ayewritnesa, who inte73;v«ene'd"V" "ei\$ paz\$state the quarrelling p»ora:>n;\$, _ . " That time. the accused a.\$i\$ai}\$st\$td V"iian: _.....&;1sa. She states that tha .:éççu£.sdf□i; ked up quarrel at the times of 'Eater near a tank and aaaaulted and also pushed her. In that pzguéc.-eas czertain inj uriea and frzmtura mare . ____..éauaed to Hallazma.

4}] Pw.3-Shivmurthy has stated that m'.1--hiallamna is his mother and W.2 in #§_uwv*~k~« his wife. He is not an eyerwitnessavV.*i:'\$'.g:ha incident. Further he states who cant or the vi111aqe Va»nd back, he came to know ibç*gt...:tEe; 93.4 is tha Panch"iV__wi,t::□#s;t mahazar. HL5 iaii 3€>nf!.i--f£1F"l&.B\$ of and has has stated that iilig 'me 4...:f£:'€:vAA»A.;Itnow that the i injuries are due to the inc.idén1~; "-iVn' L5} _ eyewitness to the incideirmi * iri" H9 is none other "~z;raxi:'&s»\$V::z_i_____AA::£ PIL1. P□.'7 is the A"I_n?§;sti\$ _a'tizii:g* ofricer. He states reqai'dinigi'. "'ii':__iiécaivinq complainant and .. V_,.ç.n.n.....-...-W». nlun \.ua...«u ur ISAKNAEAKA HIGH COURT OF i<ARNA'rAl-(A HJGH COURT OF n(ARNA1'm(A 1-ugl- 'tl□cf mahazax as per Ex.P2 and of 149.1. He registered the case . -'--1'\$5;§a';;in.st the petitioner-accused and V*V\$.: 'v'" -icsrwaxded the FIR to the Haqistrate and after aonplation of the investigation, |)ff\ f'\ " I..IE\H_I Ll|.:I_ns:.a-n-gnu." _ . --.--- -- filed czharge ahaet. mus -Dr. B.H.vV.iE\$ngah states that Mallazma had suf£araa:£' _:""gi.r.ig\$§u:zes;;_ia_ injury . Ex . P3 is the mspunci' " 'V . issued by him.

6} Thu re-appza:ci}a.i\$ian bf. isirgl and m-ousmentary evi'\$3anc.: _'M'. _ Vi;*£a,=.;\$&i»a xtiat the incident occur\$ri...:i1\$anaii\$VAAé:::g water tank and in of mcxment, the iipicked up a club lying néarbyi Hallazm on her head. '1'he'~ii;j,u£y."V;ei}1a:'\$iained on the head or any A'gx.i.\$.voua injury'. Accoxding .:.'I;* »:::m':<,:\$§r::,'<VV&:' '{--1?£f.8} I-iailamma sustained 'in?'=.._...two/t!;j: 'ééV _'.fi%@tures, they are grievous in " The over all evidence reveals incident took place near public,..... ..m..... nlun guuxl Ur mmnwm men COURT or-' i(ARNA'fAKA was COURT os KARNATAKA mc-3|-§ tank at the time or filling water on a spur of moment, without any pre---- ..»----~» up-raw:-u -urn uur-unxaurnnnrnur-I rwditation. Thexafoxe, we hold that this xeapandentfaccusd is guilty of \$he cffençe jpuniahable undar' Sectia□W 33□E;#f I.P.C T3 The avidancg_ of ginjuxédw pa ;» gsx reliable and cbganilian□£□\$ \$§mm is supported by th\$ _"j~-- Even though therg i\$:vV1?~,. \$vidence for conviction, _,\$\$si _\$%\$&£ J \$§;££ wrongly discarded th\$xs£f£g+@\$%f# □£Lh\$§ granted an order at □an we find that the csrder é>I_V is erroneous and \$ha,_s\$§a@LY\$§q□k\$.çintexference in this ~ _ following order:

'fhç\$""AapQi\$%:a:_'. : is allowed. The order or _ g;\$uittaI_□aaaad by the trial court la set V" f_r\$si&é;□ The reapcndnt/accused is held of the or-tense 11/3. 335 of I.P.C. though, as the alleged offence is V\$ithauz. pxewmaditation, he is guilty af anus. s..-uuau wn nnnnnanau-u ruwn \..._.I.4};nI Ur I\ P\!I'Cl-\N'\I-I I'HUI'E L..UUK| U!' KARNATAKA FHGH COURT OF KARNATAXA g« □;{-1 CQUR1 9;: KARNA1-AKA Hie" □□imuéak uuvuu ugqfn□il urn I\r\n:'r-ur-u\r- I III-PI I \w\$J\!l' 'LIE' I'I\I\I'I'" \i!"\I\I\ 'II\JI'I LQUK' UP the affence punishable undm: secti\$éi _:"".335 arzf IPC ..» ina tead of ordeirgi f I __?;:*.:?:::~*i_ V imprisonment. the resp9;1d\$ntla"ç':\$i}af\$€i} , " . being this first orfendeg: 13..:o£d\$z{\$:i"V\$;a:."h\$ i released on prc:batii;ii£~...V_onA"' lie' mi' hand in a. sum gaff 1?:{.n.~\$VV'V.'_3.",_~t3'G»£'3A_,f-.iiiupasa; Fifty Thousand) with □he like--sum and on aiiivvithat he will muintaih f hahaviour fur a perivbdyi' * :3'; _ year . The directed ta pay a

caug.';*.»m_;;s.i4ti:Vq-n"." #3:' 11.5.20, 000/-' tn the '-;f.'ow§i\$;iannt--PW1 and that amount .V:s'h§1if'b,§Vvigiépeaited within a period of two mcsntnsi i iirrom today, railing which the ;aa.tf..tI\$.i:... bu listed before this court for 'A"i§ϕE>aiti<>n or sentence for the proved V' wt>rIez:ce. The trial Court shall report the ccmgliance cf the am».

The fan of Amicus Curiae is FLs.5,wO;- {Rupees Five Thousand) state sham pay the 3.'ee____,t,,;c; tf'a'5e"" % k curiae.

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