



IN THE HIGH COURT OF KARNATAKA,

DHARWAD BENCH

DATED THIS THE 23RD DAY OF OCTOBER, 2024

PRESENT

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR. JUSTICE T. G. SHIVASHANKARE GOWDA

CRIMINAL APPEAL NO. 100179 OF 2021 (C)

BETWEEN:

RAMESH S/O. DASAPPA GOLLAR
AGED ABOUT 30 YEARS,
S/O DASAPPA GOLLAR,
R/O. GOLLARAKERI, BADANAGOD,
SIRSI (IN J.C.)-581402

...APPELLANT

(BY SRI. LAXMESH MUTAGUPPE, ADVOCATE)

AND:

THE STATE OF KARNATAKA BY
C.P.I. OF SIRSI CIRCLE, SIRSI,
REPRESENTED BY ITS STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA,
DHARWAD-580011.

...RESPONDENT

(BY SRI. M.B. GUNDAWADE, ADDL. SPP.)

THIS CRIMINAL APPEAL IS FILED U/S 374(2) OF CR.P.C.,
PRAYED THAT, THIS APPEAL BE ALLOWED IN HIS FAVOUR AND HE
BE ACQUITTED, BY SETTING ASIDE THE JUDGMENT DATED 12TH
APRIL 2021 PASSED BY I ADDL. DISTRICT AND SESSIONS JUDGE,
U.K. KARWAR SITTING AT SIRSI IN S.C.NO.5033/2019, IN CRIME
NO.9/2019 OF RESPONDENT POLICE, FOR AN OFFENCE PUNISHABLE
UNDER SECTIONS 302 AND 201 OF THE INDIAN PENAL CODE, IN
THE INTEREST OF EQUITY AND JUSTICE.



THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR
AND
THE HON'BLE MR. JUSTICE T. G. SHIVASHANKARE GOWDA

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE T. G. SHIVASHANKARE GOWDA)

In this appeal, the accused has challenged the judgment of conviction and order of sentence dated 12.04.2021 passed in S.C.No.5033/2019 by the I Addl. District Judge, Karwar, sitting at Sirsi (in short, 'Trial Court'). The accused has faced trial for the offences punishable under Sections 302 and 201 of IPC.

2. Brief facts of the case are, one Puttamma, the deceased, was a Jogamma by profession, she is the grandmother of the accused herein. The accused with an intention to offer human sacrifice to Huligemma Goddess, on 20.02.2019 at 11.00 a.m., went to the house of his grandmother and made an attempt to assault on her neck with a chopper/katti, but she attempted to prevent him from causing more damage and sustained injuries on her



hand but the accused caught hold of her neck and beheaded her. Thereafter he locked the house and destroyed the key of the door, bloodstained clothes and escaped along with chopper. Since the deceased was missing in and around the area, local people gathered near house on 21.02.2019, broke open the door of the house of the deceased and found the dead body of the deceased. There was an identical incident two years prior to it and the fellow villagers suspected the accused. As such, they traced the accused near Dharma Dam and on his own he made extrajudicial confession about the commission of the alleged offence. Hence, law was set into motion by filing a complaint, the accused was arrested and subjected to judicial custody. PW-12/Circle Inspector of Police after completing the formalities of the investigation, laid charge sheet against the accused for the offence punishable under Sections 302 and 201 of IPC.

3. The accused stood for trial, pleaded not guilty of the offences under Sections 302 and 201 of IPC. The



prosecution examined 14 witnesses as PW-1 to PW-14, 39 documents were marked as Exs.P-1 to P-39 and 22 material objects as per M.Os.1 to 22. After examining the accused who did not choose to lead defence evidence, the Trial Court by the impugned judgment, convicted the accused for the offence punishable under Sections 201 and 302 of IPC and sentenced him to undergo life imprisonment for the offence punishable under Section 302 of IPC and simple imprisonment for six months for the offence punishable under Section 201 of IPC. Aggrieved by the same, the accused is before this Court.

4. We have heard the arguments of Sri Laxmesh Mutaguppe, learned counsel for the accused and Sri M.B. Gundawade, learned Addl. SPP for the respondent-State.

5. It is contended by the learned counsel for accused that the entire case is based on the circumstantial evidence. There are no eyewitnesses to the incident. The evidence on record did not point out and connect any of the links against the accused. There are bundle of



contradictions and omissions elicited in the cross-examination but the Trial Court did not appreciate the said aspects. Recovery at the instance of the accused is proved by the prosecution and it is a case for benefit of doubt. The accused is in judicial custody since the date of his arrest, learned counsel requests for extension of benefit of doubt.

6. *Per contra*, learned Addl. SPP has contended that the accused is none other than the grandson of the deceased. The accused had committed identical offence two years prior to the date of this offence. In the said case, on the ground of benefit of doubt, the accused got acquittal. The accused has made extrajudicial confession before PW-3, PW-6 and PW-9, there is recovery of bloodstained clothes of the accused so also the sword at the instance of the accused. The FSL report ratifies that the bloodstains found on the clothes of the accused were of the deceased. If the accused was innocent, how bloodstains of the deceased came in contact with his



clothes is not explained. The cross-examination of the star witness has not brought out anything in support of the defence. Though the evidence is based on circumstantial witnesses, each circumstance is very strong and the Trial Court has rightly appreciated the evidence, came to the conclusion that the ingredients of the charged offences have been explained, recorded the conviction and imposed the appropriate sentence. It is further contended that the accused has committed gruesome offence of beheading the deceased and he deserves capital sentence. There are no circumstances creating doubt by the defence which will benefit the accused and he has argued in support of the impugned judgment.

7. We gave our anxious consideration to the arguments addressed by the learned counsel on both the sides and perused the records.

8. The points that arise for consideration are :

(i) *Whether the death of the deceased was homicidal in nature?*



- (ii) Whether the prosecution is able to prove the ingredients of the offence against the accused?*
- (iii) Whether the impugned judgment is perverse, illegal and calls for interference?*

Re. point No.(i):-

9. It is the specific case of the prosecution that the deceased attained the homicidal death. PW-5 Kumar is the panch witness to the inquest. On careful perusal of his statement it is pertinent to note that on 21.02.2019 when he visited the house of the deceased, he saw the dead body of the deceased whose head was separated from the body. On the same day, the police conducted inquest as per Ex.P-8, at the spot, he saw the bloodstains and sampling of bloodstains as well as mud collected by the police as per M.Os.2 and 3 and preparation of Ex.P-9 sketch and also the spot mahazar under Ex.P-2. His cross-examination did not point out anything in support of the defence. The cross-examination ratified that near the dead body, separated head was lying.



10. We have analysed the testimony of PW-10 Dr. Nagaraj, Senior Specialist, Taluka Hospital, Siddapur. His testimony shows that on 21.02.2019 between 6.15 p.m. to 8.15p.m., when he conducted the autopsy of the dead body of Puttamma Guruvappa Gollar, he noticed decapitation of the body and neck at the level of C-6 and C-7 of vertebrae, exposing torn muscles, blood vessels, spinal cord at this level. There was extravasation of blood into soft tissues surrounding the edges of wounds in both separated parts with clean edges. Surrounding tissues are smeared with blood. Middle finger of left hand was amputated at proximal phalynx. 13 cm length incised wound over first web space of left hand exposing underlying muscles and bones. 9 cm X 3 cm incised wound over base of palm of left hand. 6 cm X 0.5 cm incised wound over dorsal aspect of medial side of left hand. 1.5 cm X 0.5 cm incised wound over anterior aspect of left shoulder. All these injuries were antemortem in nature. There was no presence of poison and intoxication as confirmed by the chemical examination report and



thereby he issued PM report as per Ex.P-21 that the death of the deceased was due to decapitation injuries. He examined the weapon of offence which is marked as M.O.6 and opined that it could cause injuries as noted above. The cross-examination of PW-10 did not suggest any second way hypothesis that was the cause for the death of the deceased other than decapitation of the head of the deceased from her body.

11. On careful perusal of the averments made in the complaint, the spot mahazar as well as the inquest panchanama which stand in support of the medical evidence that the deceased died on account of homicidal injuries. Hence, we are persuaded to hold that the death of the deceased was homicidal in nature. Accordingly, we answer point No.(i).

Re. point No. (ii):-

12. The prosecution proposes that the accused was the assailant who used M.O.6, as a weapon to decapitate



the head of the deceased from her body. The entire case of the prosecution is based on the circumstantial evidence and the prosecution is mainly banking on the extrajudicial confession made by the accused followed by the recovery of weapon of offence at his instance. There is no dispute that the victim is the grandmother of the accused. It is he who had easy access to her residence. His grandmother died due to decapitation and the entire village was present when the incident was reported to the police suspecting only one person i.e., accused. The entire village suspected the hand of the accused since there was an identical incident two years prior to it and thereby they started searching for the whereabouts of the accused. All of them searched for him and ultimately the accused was traced by PW-3 Nanjundi and PW-9 Santosh.

13. This aspect has been spoken to by PW-6 that he came to know about the alleged incident and visited the spot and found the dead body of the deceased with head decapitated. CW-13 and CW-14 traced and brought the



accused and handed over the police on 22.02.2019. PW-6 and CW-5 were called to Banavasi Police Station where the accused was present who took them and the police in a forest area situated at Dasanakoppa-Sirsi Road where he had produced bloodstained M.O.6. The same was seized by the police under mahazar, Ex.P-14. The cross-examination of the defence did not bring out anything to doubt the veracity of the evidence of PW-6. Testimony of PW-6 stands in support of the Investigating Officer.

14. PW-12 B. Girish is the Investigating Officer whose testimony says that on 22.02.2019 he examined the accused in Basavasi Police Station in the presence of PW-6 and CW-5. The accused took PW-6, CW-5 and police from Dasanakoppa-Sirsi Road and by the side of the road near one Ayya canteen, he produced M.O.6 chopper which was bloodstained and the same was seized under Ex.P-14. His evidence also points out that the clothes of the accused were bloodstained. The cross-examination is only mere denial and nothing brought out to doubt the veracity



of the Investigating Officer. So from the above, it is very clear that the seizure of M.O.6 and clothes of the accused as well as the victim stained with blood.

15. We have carefully perused the chemical analysis report marked as Ex.P-38. Examination of viscera sampling ratifies that there was no residues of volatile poisons found in the viscera sample. Ex.P-37 is the FSL report which shows that M.O.6 and bloodstained clothes of the accused and victim were subjected to examination which ratifies the presence of bloodstains on these articles and serology report confirms that the bloodstains found on these articles were of 'B' group blood. So bloodstains of the deceased on M.O.6 and clothes of the accused are thereby explained. If the accused was innocent, not present on the alleged incident it is for the accused to explain how the weapon of offence M.O.6 and also his clothes stained with blood belonging to the victim, but we do not find any explanation.



16. The prosecution also relies on extrajudicial confession of the accused before PW-9. We have carefully perused the evidence of PW-9 that after coming to know about the alleged incident, he rushed to the spot and fellow villagers were murmuring that the accused might be responsible for the death of the deceased. Hence, he along with PW-3 Nanjundi went in search of him and traced the accused near Dharma Dam. They found the shirt and underwear of the accused being stained with blood. When they made enquiry with the accused, he confessed to both that he had offered his grandmother as human sacrifice to Huligemma Goddess. The accused though tried to escape from there, the villagers caught hold of him and handed over to the police.

17. We also perused the evidence of PW-3 whose evidence point out the death of the deceased and the fellow villagers were brought and handed over the accused to the police. But he turned hostile and he did not support the prosecution. His cross-examination point out that the



accused was not present at the spot, he was brought from Badangod bus stop, by PW-9 and handed over to the police. Even if the evidence of PW-3 can be eschewed on account of he turning hostile, his cross-examination cannot be ignored about absence of the accused at the spot, he was brought from Badangod bus stop, PW-9 handed him over to the police.

18. Evidence of PW-9 clearly goes to explain that PW-3 and PW-9 are two persons who came across the accused near Dharma Dam, where the accused made a statement to them that he was responsible for the death of the deceased and it was a case of human sacrifice. The accused made a statement before the Investigating Officer about weapon of offence, recovery of M.O.6 as per the statement of the accused under Ex.P-26. Seizure of shirt and banian and nailings of the accused was collected by the Investigating Officer when the accused was subjected to medical examination as per Ex.P-27.



19. Now from the totality of the evidence, it is thus clear that on the alleged date of incident, the accused was not found at the place of incident, he was found missing even though the entire village was near the place of incident. PW-3 and PW-9 who traced the accused at Dharma Dam, was wearing the bloodstained clothes and the same was seized and at the instance of accused, weapon of offence was seized. Nothing has been brought out in the cross-examination of any of the witnesses including the Investigating Officer why these witnesses want to falsely implicate the accused.

20. Hence, the evidence of PW-3 and PW-9 stand in support of the prosecution and recovery of the weapon of offence is spoken to by PW-6. The FSL report speaks about bloodstained clothes of the deceased, weapon of offence and there was recovery at the instance of the accused. No explanation was offered by the accused and the circumstances that are proposed by the prosecution though having limited evidence but it is qualitative



evidence. When the evidence is qualitative, quantity makes no difference and this kind of evidence points to the involvement of the accused only.

21. The defence did not bring out anything that any scuffle or sudden provocation or no intention on the part of the accused to commit the said act. All the circumstances point out that the accused decapitated the deceased to offer human sacrifice to Goddess Huligemma. Hence, the act of the accused is intentional and the alleged act is a clear case of causing homicidal death of the deceased. Under the circumstances, we are persuaded to hold that the ingredients of charged offence are made out. Accordingly, we answer point No.(ii).

Re. point No.(iii):-

22. We have carefully perused the impugned judgment. Trial Court has appreciated the facts, evidence, medical evidence, FSL report, recovery of weapon of offence and the qualitative evidence of PW-9 before whom



the accused made extrajudicial confession and by a well-reasoned order, held that the death was homicidal, ingredients of the charged offences are made out and rightly recorded the order of conviction.

23. We have also perused the order of sentence passed against the accused. The accused was sentenced to undergo life imprisonment for the offence punishable under Section 302 of IPC and simple imprisonment for six months for the offence punishable under Section 201 of IPC. Offence under Section 302 of IPC also attracts the sentence of fine. But the Trial Court has lost sight of it. Since the prosecution is not in appeal, it is not proper to impose fine *suo moto*. Trial Court extended the benefit under Section 428 of Cr.P.C. and directed both sentences shall run concurrently. Section 432 of Cr.P.C. confers power to appropriate Government to suspend or remit the sentence imposed. If the appropriate Government decides to act accordingly, the period already undergone by the accused may be considered. We do not find any error or



illegality in the impugned judgment as there are no circumstances to extend the benefit of doubt in favour of the accused. Hence, the appeal is devoid of merits, in the result, the following:

ORDER

Appeal is dismissed.

The judgment of conviction and order of sentence dated 12.04.2021 passed by I Addl. District and Sessions Judge, U.K. Karwar sitting at Sirsi in S.C.No.5033/2019 against the accused is hereby confirmed in the light of the observations made supra.

**Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE**

**Sd/-
(T. G. SHIVASHANKARE GOWDA)
JUDGE**

Naa
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