



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE K. V. ARAVIND

CRIMINAL APPEAL NO. 1460 OF 2019

C/W

CRIMINAL APPEAL NO. 549 OF 2020

In Crl.A No. 1460/2019

Between:

Sathisha
S/o Chinnappa,
Aged about 30 years,
Manchahalli Hundi,
Nanjangud Taluk,
Mysore District-56

...Appellant

(By Sri H.S.Chandramouli, Senior Counsel for
Sri Prateek Chandramouli, Advocate)

And:

The State of Karnataka
By Sathanoor Police,
Ramanagar District,
(Represented by Learned
State Public Prosecutor),
High Court of Karnataka,
Bengaluru-560 001.

...Respondent

(By Sri Vijaykumar Majage, SPP-II a/w
Smt. R.Sowmya, HCGP)

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KARNATAKA



This Criminal Appeal is filed u/s.374(2) Cr.P.C praying to set aside the judgment of conviction and order of sentence dated 19.07.2019 passed by the II Additional District and Sessions Judge, Ramanagara, to sit at Kanakapura in S.C.No.5047/2014 - convicting the appellant/accused No.1 for the offence p/u/s 363, 302 and 201 r/w 34 of IPC.

In Crl.A No. 549/2020

Between:

Manja @ Manjunatha
S/o Narasimha,
Aged about 23 years,
Sathanur Village,
Kanakapura Taluk,
Ramanagara District-56

...Appellant

(By Sri H.S.Chandramouli, Senior Counsel for
Sri Prateek Chandramouli, Advocate)

And:

The State of Karnataka
By Sathanoor Police,
Ramanagara District,
(Represented by Learned
State Public Prosecutor)
High Court of Karnataka,
Bengaluru- 560 001.

...Respondent

(By Sri Vijaykumar Majage, SPP-II a/w
Smt. R.Sowmya, HCGP)

This Criminal Appeal is filed u/s.374(2) Cr.P.C praying to set aside the judgment and order of conviction dated 19.07.2019 and sentence dated 20.07.2019, passed by the II Additional District and Sessions Judge, Ramanagara to sit at Kanakapura in S.C.No.5047/2014, convicting the appellant/accused N o.2 for the offence p/u/s 363, 302, 201 r/w 34 of IPC.



Date on which the appeals were reserved for judgment	17.02.2025
Date on which the judgment was pronounced	09.04.2025

These Criminal Appeals, having been heard & reserved, coming on for pronouncement this day, judgment was delivered therein as under:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MR JUSTICE K. V. ARAVIND

CAV JUDGMENT

(PER: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR)

These two appeals arise from common judgment in two Sessions Cases, S.C.No.5047/2014 and S.C.No.5058/2014 tried in the court of II Additional District and Sessions Judge, Ramanagara (Sitting at Kanakapura).

2. Actually charge sheet was filed against 10 accused persons and it was numbered as C.C.No.769/2014 before committal to the Sessions Court. Because accused No.5 was absconding charge sheet against him was split and numbered as C.C.No.1036/2014. After committal, and after accused No.5 was secured, both sessions cases were



clubbed for trial purpose and thus two Sessions cases came to be registered.

3. The prosecution case is about the homicidal death of one Rajesh. There was a land dispute between the family of the deceased and the accused. In this background Kumara son of Nagarathnamma, the seventh accused was killed and in that connection deceased Rajesh and the members of his family were charge sheeted and tried. Some of them were convicted also. Thereafter Rajesh and his family members left their native village, Virupasandra in Kanakapura taluk and came over to Bengaluru. But the accused were nurturing ill-will against Rajesh and his family members. There was a cart festival in their village Virupasandra in between 05.05.2014 and 07.05.2014. PW1, PW3 and PW4 came to Virupasandra on 06.05.2014 to attend the cart festival. PW4-Srinivasa and his brother-in-law Ashok decorated their cart (Yalavara) to be taken in



procession. When their cart came in front of the house of accused No.7, accused Nos.1, 2, 6, 7, 8, 9 and 10, in the background of previous enmity, took objection to PW4 and Ashok bringing their cart in the procession and put threat to them. It is stated that they would take away the life of one of the sons of Doddahuchaiah i.e., the father of PW4. On the next day i.e., 07.05.2014, when PW1 and Rajesh had been to a temple, accused Nos.1 to 5 and 6 thought that PW1 and Rajesh would come along the road passing through Malagala and planned to abduct Rajesh. At about 4.30pm, when Rajesh and PW1 were going in that road on the motorcycle, accused Nos.1 to 5 stopped the motorcycle and accused No.1 fisted on the face of Rajesh. As Rajesh fell down accused No.2 hit on the face of Rajesh with a helmet. When PW1, PW5, PW7 and PW8 tried to interfere, they were all threatened. Then accused Nos.1 to 5 took Rajesh in an auto rickshaw. Accused Nos.1, 2 and 4 were sitting



inside the auto rickshaw. Accused No.3 rode the motorcycle of Rajesh and followed the auto rickshaw. They all took Rajesh to the garden land of PW17 and killed him by assaulting with beer bottles and clubs. Thereafter accused No.2 dropped a big stone on the head of Rajesh. Accused No.1 took the same stone and dropped on the private part of Rajesh. In order to cause disappearance of evidence they poured petrol and burnt the face of Rajesh.

4. In regard to this incident PW1 gave a report to the police. The investigation resulted in all the accused being charge sheeted for the offences under Sections 120B, 143, 147, 148, 324, 341, 363, 506, 302, 201 read with Section 149 of IPC.

5. Assessing the oral evidence of 25 witnesses, and the documents as per Ex.P1 to P40 and material objects MO1 to MO14, the trial court ultimately held accused Nos.1 and 2 guilty of the offences punishable under Sections 363, 302, 201



read with Section 34 of IPC. Accused Nos.3 to 10 were acquitted of all of the offences and accused Nos.1 and 2 were acquitted of the offences punishable under Sections 120B, 143, 147, 148, 324, 341 and 506 of IPC. Each of accused Nos.1 and 2 was sentenced to life imprisonment and fine of Rs.50,000/- for the offence under Section 302, imprisonment for 5 years and fine of Rs.10,000/- for the offence under Section 363 and imprisonment for 5 years and fine of Rs.10,000/- for the offence under Section 201 of IPC.

6. Aggrieved by the judgment of conviction and sentence accused No.1 has preferred Crl.A.No.1460/2019 and accused No.2 has preferred Crl.A.No.549/2020.

7. We have heard the arguments of Sri H.S.Chandramouli, learned senior counsel for Sri Prathik Chandramouli, learned counsel for the appellants and, Sri Vijayakumar Majage, learned



SPP-II and Smt. R.Soumya, learned High Court Government Pleader for the respondent-State.

8. The trial court has recorded reasons that though there are no eye witnesses to the actual incident of killing Rajesh, the testimonies of PW1, PW2, PW3 and PW4 are helpful to draw inferences that accused Nos.1 and 2 were involved in killing Rajesh in the background of previous enmity. The testimony of PW1 established the motive and also part of the incident of stopping her and Rajesh when they were riding a motorcycle, and assaulting Rajesh. PW1 saw Rajesh being taken in an auto rickshaw. PW2 establishes the related circumstance of Rajesh being taken in an auto rickshaw. The seizure of clothes of accused Nos.1 and 2 and the auto rickshaw, the place of killing being shown by accused Nos.1 and 2 are all related circumstances with the help of which the involvement of accused Nos.1 and 2 can be inferred. Therefore the trial



court held only accused Nos.1 and 2 guilty of the offences.

9. Sri H.S.Chandramouli learned senior counsel for the appellants highlighted the points that FIR was not registered on the same day when Rajesh was said to have been abducted. It was registered on the next day. According to prosecution there occurred three incidents. The first one was threatening the deceased and his brothers at the time of procession, the second one was abduction and the third one was the actual incident of killing. PW1 has clearly taken the names of PW7 and PW8 stating that they were present when Rajesh was hit before he was abducted, but they did not support the prosecution. Actually PW1 is also not an eye witness to the prosecution story that Rajesh was abducted by the accused. PW1 has come out with a false version that after the deceased and some others were convicted in the earlier sessions case, her father and brothers left the village and settled



down in Bengaluru and for about 7 years they never visited the village till the date of taking place of incident. But her testimony itself discloses that they were all visiting the village very often and getting their land cultivated. PW1 has purposefully given false evidence that her brothers did not visit the village for 7 years. In this view her testimony cannot be so easily believed. When there was bitter enmity between two families, evidence of PW1, PW3 and PW4 must be scrutinized with utmost care and caution and in this case it is quite clear that they have given false evidence. The testimony of PW2 is insufficient to believe his version that he saw accused Nos.1 and 2 for the last time along with the deceased in the auto rickshaw. Based on the evidence on the last seen theory, no conviction can be recorded. The very fact that PW7 and PW8 did not support the prosecution is sufficient to hold that the accused are falsely implicated in view of rivalry. All these aspects are sufficient enough to conclude



that there is no proof beyond reasonable doubt. The trial court has failed to appreciate the evidence. Therefore the appeals deserve to be allowed and the appellants acquitted.

10. On behalf of the State it was argued that the way the prominent witnesses are cross-examined itself shows that there was enmity between two families. It is true that Rajesh and his brothers and father were convicted in a case relating to murder of the son of accused No.7 Nagarathnamma. The accused were waiting for an opportunity to revenge on the deceased and his family members and they made use of the occasion of cart festival in the village to achieve their purpose. Though PW1 is not an eye witness to the incident of killing of Rajesh, she being a witness to the earlier incidents, her testimony cannot be outrightly rejected. She has clearly stated that when she and Rajesh were in the temple, accused Nos.1 and 2 with others went to that place and threatened. She was very much



present when accused No.1 stopped their vehicle on the way and assaulted Rajesh. She saw an auto rickshaw at that time. She returned to village to inform her other brothers about assault on Rajesh and by the time she came back to that place, Rajesh was not found. Evidence of PW2 shows that he saw Rajesh being taken in the auto rickshaw by the accused and he also heard the cry of Rajesh when he was sitting in the auto rickshaw. PW2 has not been discredited. Blood stains were found on the clothes of accused Nos.1 and 2. Therefore collating the circumstances of PW2 seeing Rajesh and the accused Nos.1 and 2 in the auto rickshaw and the blood stains on their clothes which were recovered at their instance only, no inference other than that they were only involved in the incident could be drawn. This is how the evidence has been appreciated by the trial court. In this view there are no merits in the appeals and hence they deserve to be dismissed.



11. On re-appreciation of evidence keeping in mind the points of arguments, it can be stated thus:

11.1 The incident as a whole consists of three parts. First one is about taking objection at the time of procession. To this incident PW1 is not an eye witness, she has just stated that she came to know about objection taken by accused No.7 and some of her family members seeing her brothers, Srinivasa and Kumara bringing their procession cart. That means both Kumara and Srinivasa were there in the procession, but if the testimonies of PW3-Kumara and PW4-Srinivasa are seen, inconsistency in their evidence can be noticed. PW3 does not say that he was taking part in the procession, rather his evidence is that PW4 and Ashoka had made the procession cart ready and he came to know about assault on PW3 by all the accused and the threat given to him that they would take away the life of one of his family members. But PW4 has stated that his brothers Kumara and Ashoka were bringing the



procession cart and at that time some of the accused and their family members pulled him aside and assaulted him. In spite of inconsistency like this, PW4 is consistent in saying that it was he who was assaulted at that time.

11.2 The second part of incident is when PW1, PW3 and PW4 were in the temple, the accused, in particular, accused Nos.1 and 2 came there and stared at them threateningly. In this regard all the three have stated consistently.

11.3 The third part of incident is about abduction and then killing of Rajesh. Before dealing with evidence on third part of incident, it may be stated that the first and the second parts indicate the motive for the actual incident of killing of Rajesh. Existence of enmity between two families in the background of land dispute is not controverted. There is also no dispute that Rajesh and his brothers



faced trial in relation to murder of the son of accused No.7 Nagarathnamma.

12. So far as third part of the incident is concerned, PW1, as can be made out from her testimony, did not see her brother Rajesh being abducted by accused No.1 and accused No.2. Her evidence shows that when she and Rajesh were riding a motor cycle at about 4.00p.m., after finishing 'pooja' in the temple, accused Nos.1, 2 and 6, and some others stopped them near a bridge. She has stated that if accused No.1 fisted on the face of Rajesh, accused No.2 hit him with a helmet. Rajesh fell down receiving these blows and she screamed at that time. She was threatened. She then left that place in order to bring her two other brothers Kumara and Srinivasa. She has stated that one Veeresh, PW7-Dodda Revanna and PW8-Tagadooraiah were present at that time and they were also threatened. When she came back to that place again with Kumara and Srinivasa, accused



Nos.1 and 2 had left that place taking Rajesh in an auto rickshaw. Death of Rajesh occurred at another place which was not seen by PW1. PW3 and PW4 have stated consistently that PW1 came and gave information about assault on Rajesh by accused No.1 and accused No.2, and also about all of them searching for Rajesh thereafter.

13. PW1, PW3 and PW4 have named PW5-Beeresh. The charge sheet shows that PW5 was an eye witness to abduction of Rajesh; though he turned hostile, he admitted his signature on Ex.P12, the inquest panchanama without supporting its preparation in his presence. PW7 also did not support. But PW8-Tagadooraiah supported the prosecution by stating that on the day when there was festival in the village, PW7 and he were coming from Virupasandra to Malagalu around 4.00 or 4.30 p.m. Then they saw totally five persons including accused Nos.1 and 2 having restrained PW1 and Rajesh on the road and assaulting them. He has



stated that accused No.1 hit Rajesh with helmet and accused No.2 fisted on Rajesh's face. He has also stated that they all took Rajesh in an auto rickshaw towards Kanakapura, and accused Nos.1 and 2 rode the very same motor cycle being ridden by Rajesh to follow the auto rickshaw.

14. The cross examination of PW1, PW3, PW4 and PW8 has not yielded any result in favour of defence. They are also questioned more about enmity between two families and Rajesh and his brothers facing trial in connection with murder of son of accused No.7 and their conviction in that case. So far as the incident of assaulting Rajesh and taking him in an auto rickshaw are concerned, suggestions denying these statements are given, but they have refuted those suggestions. PW8 is an independent witness. It is his clear answer in the cross examination that after seeing Rajesh being beaten and taken in an auto rickshaw, he came to village and disclosed it before villagers. He has



taken the name of PW7 stating that he was present with him and he too saw assault on Rajesh. As PW8 has stated PW7 was present, the hostility of PW7 does not matter. But one answer of PW8 in the cross examination is required to be commented here with reference to evidence given by PW22, the investigating officer. PW8 has stated in the cross examination that for about fifteen days he did not disclose to the police what he had seen. He also stated that when the police came to spot on the next day, he was very much present. Therefore delay in recording the statement obviously gives scope for doubting the veracity in the statement of a witness. If this is the answer of PW8, PW22 has stated that he recorded the statements of CW5(PW2), CW6(PW8), CW7(PW7) and CW17(PW11) on 11.05.2014, that means PW22 did not record statement of PW8 after fifteen days; his statement was recorded by PW22 just three days after the incident. For this reason testimony of PW8 does not



become unreliable. The conclusion to be drawn from the testimonies of PW1 and PW8 is that they saw accused No.1 and accused No.2 inflicting injuries, and PW8 in particular establishes abduction of Rajesh.

15. In the context of the circumstance of abduction of Rajesh, the testimony of PW2 provides more impetus. He knows PW1 as also the accused. His testimony is that when he was giving water to the cattle, he heard the cry of Rajesh from inside an auto rickshaw. When he asked the driver the reason for the cry, the latter said that Rajesh was fully drunk and was being taken to hospital. He saw another person sitting inside the auto rickshaw and two others following the auto rickshaw on a motorcycle. The next day morning he got the news about death of Rajesh. He has also stated that he came to know that when Rajesh and his sister, PW1 were going on the motorcycle, they were stopped, assaulted and taken in an auto rickshaw. His cross



examination also shows an attempt being made to elicit existence of enmity between two families and for this reason Rajesh and his brothers had shifted their residence to Bengaluru and therefore he did not know Rajesh personally to recognize his voice. He has taken ignorance about enmity, however it is his firm answer that since he had heard the voice of Rajesh whenever the latter came to village he could make out the crying voice of Rajesh on that day. He denied to have given evidence as tutored by PW3. Thus evidence of PW2 establishes that Rajesh was abducted in an auto rickshaw.

16. The next question to be examined is whether the evidence of PW2 finds the involvement of accused No.1 and accused No.2 in the act of killing Rajesh. To this the only circumstance is recovery of auto rickshaw and their blood stained clothes. Rajesh was killed near the garden land of PW17 Kumar, he has given evidence that dead body was found in his land and that the face of dead body



had been burnt. He also saw a Hero Honda motorbike at a distance of ten meters from the dead body. It is the evidence of PW22 that on 24.05.2014 accused No.2 voluntarily surrendered before the police by going to City Market Police Station, Bengaluru and later on he was brought to Kanakapura Rural Police Station where FIR of this case had been registered. Accused No.1 was arrested on 26.05.2014. PW22 has stated that they gave voluntary statements and said that they would show the place where they had kept their blood stained clothes, helmet and the auto rickshaw.

17. Ex.P28 is the disclosure statement of accused No.2, and Ex.P30 is the disclosure statement of accused No.1. It is the further evidence of PW22 that pursuant to disclosures made by them, they themselves took him to a cowshed situate beside the house of Smt. Prema, at Satanur Village. Accused No.1 produced his blue colour jeans knickers and a white cum cement coloured T-



shirt, both containing blood stains. MO3 and MO4 are the clothes of accused No.1. Auto rickshaw bearing No. KA-11-4053 was also parked at that place. It was also seized. Then accused No.2 produced his black color pants and a shirt containing black and yellow strips. These two clothes, MO2 and MO6, contained blood stains. A helmet MO11 was also seized. Ex.P21 is the Mahazar drawn at that time. This seizure mahazar finds support from PW12 Mahadevaiah who was one of the witnesses to it.

18. Ex.P38 is the FSL report. PW25 is the FSL expert to prove Ex.P38. His clear evidence is presence of 'O' group human blood was detected in Sl.Nos.1, 4 to 11 and 13 as mentioned in Ex.P38. Item at Sl.No.(1) is blood stained mud collected at the spot. Items at Sl.Nos.6, 9, 10, 11 are the clothes of accused Nos.1 and 2. Sl.No.13 item is helmet. If all these articles contained 'O' group human blood, the only inference that can be drawn is that none other than accused Nos.1 and 2 must be



involved in causing the death of Rajesh. It is true that PW23, the doctor who conducted post mortem examination was shown the stone during cross examination, and seeing it he answered that there were no blood stains on it. Likewise PW22 answered in the cross examination that when helmet was shown to him in the court during cross examination, he answered that there was no blood stain on it. Merely because of these answers of PW22 and PW23, it cannot be said that the helmet and the stone had not been stained with blood because of detection of blood stains on both items using scientific methods. Moreover clear answer of PW22 is that when he seized the helmet, he noticed blood stains, but when he saw it again in the court, there were no blood stains. This might be on account of passage of time and scrapings collected from the helmet at FSL. Therefore there is acceptable evidence in regard to recovery of incriminating articles at the instance of



accused Nos.1 and 2. They have no explanation as to how their clothes became blood stained.

19. In the background of this kind of acceptable evidence, a clear conclusion can be drawn that the circumstances are proved. The proved circumstances are (i) a quarrel when the procession cart came near the house of accused No.7, (ii) accused Nos.1 and 2 coming to temple when PW1 and Rajesh were there, (iii) assault on Rajesh in the presence of PW1, (iv) abduction of Rajesh, (v) finding dead body of Rajesh near the land of PW17, and (vi) Recovery of incriminating articles at the instance of accused Nos.1 and 2 fortified by FSL report. If the evidence as a whole is assessed, no reasonable doubt appears to discard the evidence. There may be some minor contradictions, they do not dislodge the prosecution case.



20. Sri Chandramouli has placed reliance on some case law. ***Kanhaiya Lal Vs. State of Rajsthan¹ and Bobby Vs. State of Kerala²*** rule that the only circumstance of accused being seen lastly with the deceased does not lead to an inference about involvement of accused, and something more providing connectivity between the accused and the crime is to be established. As discussed above, in addition to the circumstance of last seen, other circumstances are also established. The other judgments, ***Krishnegowda and Others Vs. State of Karnataka by Arkalgud Police³, Nand Lal and Others Vs. State of Chhatisgarh⁴, Jabir and Others Vs. State of Uttarkhand⁵ and Jalpat Rai and Others Vs. State of Haryana⁶*** deal with broad principles to be applied while appreciating evidence in criminal cases, and any observation made in those

¹ [(2014) 4 SCC 715]

² [(2023) 15 SCC 760]

³ [(2017) 13 SCC 98]

⁴ [(2023) 10 SCC 470]

⁵ [(2023 SCC online SC 32)]

⁶ [(2011) 14 SCC 208]



cases are in relation to the facts therein. It may not be out of context if it is opined that, in criminal cases evidence cannot be appreciated applying a mathematical formula, the nature of evidence to be produced or possible to be produced depends on facts of each case.

Therefore the conclusion is that the trial court has not committed any error in recording conviction against accused Nos.1 and 2, and sentencing them. Both the appeals fail and they are ***dismissed***.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

KMV
List No.: 1 Sl No.: 1