



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF JANUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE K. V. ARAVIND

CRIMINAL APPEAL NO. 987 OF 2023

Between:

Kantharaju @ Raju
S/o Sannaningappa,
Aged about 35 years,
R/at Katanayakanahalli,
Hiriyuru Taluk,
Chitradurga District
Pin: 577511
(Now in Central Prison,
Parappana Agrahara J.C.,
Bengaluru - 560100).

...Appellant

(By Sri. N.R.Krishnappa, Advocate)

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VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA

And:

1. The State by Nelamangala
Rural Police,
By S.P.P. High Court Building,
High Court of Karnataka,
Bengaluru-560001.
2. Lacha Naika
S/o Purada Rama Naika
Aged 44 years
R/o Kathanayakanahalli
Lambani Hatti, Hiriyur Taluk
Chitradurga District – 572143.



(Amended cause title as per the
vide court order dated 04.08.2023)

...Respondents

(By Sri Vijaykumar Majage, SPP-II for R1;
Smt. Priyanka S. Urs, Advocate for R2)

This Criminal Appeal is filed u/s.374(2) Cr.P.C. praying to set aside the judgment and conviction passed by the court of II Additional Sessions and Special Judge, Bengaluru Rural District, Bengaluru, dated 06.10.2020 sentenced on 09.10.2020 passed in Spl.C.No.149/2013 convicting the appellant for the offence p/u/s.302, 201, 497, 506 of IPC and u/s.3(2)(v) of SC/ST (POA) Act, sentencing imprisonment for life and also imposing fine to set aside the same.

This Criminal Appeal, coming on for hearing, this day, judgment was delivered therein as under:

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

ORAL JUDGMENT

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

The accused in Spl. C. No. 149/2013 on the file of II Additional Sessions and Special Judge, Bengaluru Rural District, Bengaluru, has preferred this appeal questioning the correctness of the judgment dated 6.10.2020 convicting him for the offences under Sections 302, 497, 201 and 506 of IPC, and an offence punishable under Section 3(2)(v) of the Scheduled Castes and the



Scheduled Tribes (Prevention of Atrocities) Act ['SC/ST (POA) Act' for short]. The sentence imposed on him is for life for the offences under Section 302 of IPC and Section 3 (2)(v) of the SC/ST (POA) Act and term sentences for three years imprisonment for the offence under Section 497, two years for the offence under Section 201 of IPC and one year for the offence under Section 506 of IPC.

2. The incident that led to prosecution of the accused took place on 14.07.2013. The report of the incident was given to the police by PW1 Lacha Naika. He reported to the police that his niece Lalitha Bai was given in marriage to his elder brother Naga Naika and they had three children. About two years before the date of incident the accused started loving Lalitha Bai and one year thereafter, Lalitha Bai and the accused left their village and started living in a village called Railway Gollahalli situate near Dabaspeta. Both of them were working in the garden land of one Ramaswamy. On 14.07.2013 around 2.00 p.m, accused made a telephone



call to Guru and informed him that Lalitha Bai had died and he was bringing the dead body. When he was waiting for the arrival of dead body, at 7.30 p.m., PW6 Chandrakala, the daughter of Lalitha Bai told him that at 10.00 a.m on that day, the accused and her mother quarreled with each other in regard to procuring ration card. Her mother became desperate because of quarrel. She went inside the room to hang herself. She went near a window and tied the rope and put the noose around her neck and at that time the accused, stating that she should die, pulled her leg. Then the accused himself cut the rope to bring the body down. By that time her mother was dead. He brought the body to the hospital in his native place. He threatened her that she would kill her in case she disclosed the incident to anybody and then left that place. Then PW1 went to the police station to make report of the incident. Investigation resulted in filing charge sheet against the accused for the abovementioned offences.



3. Upon appreciation of evidence the trial court has recorded reasons that the accused picked up quarrel with the deceased, assaulted her with hands and provoked her to commit suicide. Because of that provocation and out of frustration, the deceased decided to commit suicide. If really the accused had no intention or had not pre-planned or did not have motive, he would have definitely convinced the deceased not to go the extent of hanging herself. When the deceased tied the rope to the iron rod on the roof, and when she stood on the window slab, the accused came towards the window and pulled her leg. All these events show that the accused had the knowledge of the consequences that would ensue if he would pull the leg. The age of the accused at that time was 24 years and being an ordinary prudent man he was very much aware of the act he was going to do and therefore it cannot be said that he did not have intention to kill the deceased. Added to that, the deceased was a married woman and she had three children. In spite of that he induced her to elope with him. Even though they led a happy life for



about a year, very often he used to threaten that he would leave her company and return to his native place. The act does not appear to have taken place in a spur of the moment. In this view the accused can be held guilty of the offence under section 302 IPC. So far as the offence under section 497 IPC is concerned, it is held by the trial court that the accused had the knowledge that the deceased was a married woman and in spite of that he developed illicit relationship with her. The deceased belonged to Schedule Caste. The caste of the deceased has been proved. For having committed an offence under section 302 IPC, the offence under section 3(2)(v) of SC/ST (POA) Act would also get attracted. Then after causing the death of the deceased, he carried the dead body to his native place with an intention to screening the evidence and for this reason offence under section 201 IPC also gets proved. Giving these reasons the trial court recorded conviction and passed sentence as aforesaid.



4. We have heard the arguments of Sri.N.R. Krishnappa, learned counsel for the appellant/accused and Sri. Vijayakumar Majage, learned SPP-II for the State.

5. It is the argument of Sri.N.R. Krishnappa that the trial court has grossly erred in recording conviction for the offence under section 302 IPC inasmuch as the testimonies of PW6 and PW9 does not indicate that the appellant had intended to do away with the life of the deceased. Those two witnesses who are the children of the deceased have clearly stated that when the accused asked the deceased to give money to him for the purpose of procuring ration card, she refused and for that reason quarrel erupted between them. This quarrel went on throughout the day. It was only when the deceased proceeded to commit suicide by hanging herself, the accused was still in a state of provocation and anger. If in that course, if he pulled the legs of the deceased, it only shows that he did so having lost control over himself and thereby one of the exceptions to section 300 IPC could be



applied so that the offence could be scaled down to one punishable under section 304(I) IPC. If really the accused had intention to kill, he would have proceeded to kill the deceased in some other manner, because both of them were living together. When the quarrel took place he did not make any attempt to assault. The trial court has grossly erred in considering the attending circumstances. So far as the offence under section 3(2)(v) of SC/ST(POA) Act is concerned, it is submitted by Sri. N.R. Krishnappa that inspite of the fact that the deceased belonged to lambani caste, which is categorized as scheduled caste, the accused never intended to exploit the deceased on the caste factor. It was not his intention to subject any member of scheduled caste or scheduled tribe. They just had relationship and lived together. Ingredients required to punish person not belonging to scheduled caste are conspicuously absent and therefore recording of conviction for the offence under section 3(2)(v) of SC/ST (POA) Act is not sustainable. It is submitted that the accused has been in custody since 21.08.2013, that means he has already



spent more than 11 years in the jail. For these reasons, the impugned judgment be modified. The conviction against the accused can be reduced to the offences under section 304(1) IPC and the period of sentence he has already served be set off in the punishment to be imposed.

6. Sri. Vijayakumar Majage, learned SPP-II, argued that the entire case can be brought within the scope of section 302 IPC for the reason that he knew the consequences of pulling the leg of the deceased when she put the rope around her neck to commit suicide. Fourthly of section 300 IPC is attracted. The evidence of PW6 and PW9 establishes the fact that the accused had clear intention to kill the deceased and therefore there are no reasons to bring down the offence under section 302 IPC to section 304(I) IPC. In regard to offence under section 3(2)(v) of SC/ST (POA) Act, it is submitted by SPP-II that the accused knew the caste of the deceased when he induced her to elope with him and it was an intention to exploit a member of SC and having killed her he is bound



to be punished for the said offence. Appeal is devoid of merits and therefore appeal deserves to be dismissed.

7. From the arguments, it is clear that what requires to be examined is whether the entire incident would indicate an offence punishable under section 304 IPC. PW6 and 9 are the prominent witnesses, being the children of the deceased. It is the clear evidence of PW6 that on the date of incident, the accused asked her mother to give him money for the purpose of procuring the ration card. Her mother refused to give him money and for this reason there arose a quarrel between the two and the accused beat her mother. Then her mother said that instead of getting beatings from him, it was better to die and therefore she tied a rope to the iron rod on the roof and at that time the accused said that it was better that she should die and telling that he pulled her mother's legs. For this reason, the death occurred. She has further stated that she and her brother screamed loudly and at that time both of them were threatened by the accused.



Thereafter the accused himself held the legs of the deceased and PW9 untied the rope. The accused thereafter made a telephone call to Manjula, the elder daughter of the deceased and told her that her mother was dead because of stomach ache. PW9, the son of the deceased has also given evidence in the same manner. These two witnesses are the eye witnesses to the incident and they have firmly stuck to their testimony in examination-in-chief when they were cross-examined.

8. It is not necessary to refer to the other evidence relating to mahazars which are the usual procedures the police officers follow during investigation. Though the investigating officer has stated that based on the voluntary statement of the accused he was able to recover the rope at the place of incident, the said recovery does not assume importance because the rope was not hidden by the accused at any place, it was lying at the place of incident itself. What is important is the evidence with regard to the incident, which is firmly justified by PW6 and 9. Now if the



entire evidence is seen, it becomes very clear that it was the accused though picked up quarrel with the deceased when the latter refused to give money to him for obtaining ration card, he did not go to the extent of causing her death. Quarrel might have taken place throughout the day and during the quarrel, the accused might have beaten her, but he did not take extreme decision of causing the death of the deceased. But it appears that he was in a kind of mental turmoil because of the continuous quarrel and when he saw the deceased tying the rope to the iron rod on the roof and putting the other end of the rope around her neck to commit suicide, at that moment he just said that she should die and pulled her legs. This no doubt resulted in death, but the question is, had the accused gone to the extent of pulling her legs if the deceased had not tried to commit suicide. Definitely the answer would be he would not have pulled her legs. Looked from this angle, it can be clearly said that the accused had no intention to cause the death of the deceased. However verbal utterance, 'you should die'



does not amount to entertaining the intention to cause the death of another. This is how the entire incident appears to have taken place. As it appears very well that the accused would not have pulled the legs of the deceased if she had not tried to commit suicide, the next question would be whether the accused had the knowledge of the consequences he was doing. To this question, the answer would be definitely 'yes'. The deceased had already tied one end of the rope to the iron rod on the roof and put the noose around her neck. She was standing on the window panel. So when he pulled her legs he should be having the knowledge of dire consequences that would follow. Therefore fourthly of section 300 IPC would be applicable. But to this exception (4) of section 300 IPC can be applied because it has been stated by PW6 and PW9 that there was a quarrel between the accused and the deceased on that day for the sake of money to procure ration card and it appears that both of them had quarreled throughout the day. When there was such a quarrel, quite obviously a state of mental disturbance can be expected to persist,



and in such kind of a situation, seeing the deceased rushing to commit suicide if he had rushed to pull the legs, it must be in a state of provocation and anger and therefore exceptions 1 and 4 of section 300 IPC can be applied. If these exceptions are applied, definitely the case falls within the ambit of section 304 IPC. Since the intention is absent and that the accused had only knowledge of what he was doing, the entire case can be brought within the purview of Part – II of section 304 IPC. The trial court should have appreciated the evidence from this angle. Inferences drawn by the trial court about intention, preparation etc., in the absence of evidence to that effect cannot be sustained.

9. So far as the offence under Section 3(2)(v) of SC/ST (POA) Act is concerned, it is to be stated that merely for the reason that the deceased belonged to *Lambani* caste, which has been categorized under Scheduled Caste, the said offence appears to have been invoked without there being any material for invocation of



that offence. Any intention to exploit a member of scheduled caste or to cause the death of a member of scheduled caste only for the reason that she belonged to that caste is not forthcoming. In the absence of intention to exploit on the caste basis, mechanical invocation of provisions of SC/ST (POA) Act is incorrect. Therefore the conviction for this offence is not sustainable.

10. In regard to the offence under Section 201 of IPC, in spite of the fact that the accused carried the dead body from the place of incident, it cannot be said that the offence under Section 201 of IPC is attracted. He simply shifted the dead body from one place to another place. The intention to destroy the evidence is not forthcoming. Therefore conviction for the offence under Section 201 IPC is not sustainable.

11. However, conviction for the offence under Section 497 of IPC is to be sustained because deceased was a married woman and the accused knew very well



that he was developing contact with a married woman, whose husband was alive at that time.

12. Therefore from the above discussion, we are of the opinion that the judgment of the trial court requires modification. Hence the following:

ORDER

- i) *Appeal is **partly allowed**.*
- ii) *The judgment of conviction is modified.*
- iii) *The accused is acquitted of the offence punishable under Section 201 of IPC and Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.*
- iv) *The accused is held guilty of the offence under Section 304(II) of IPC instead Section 302 of IPC.*
- v) *The conviction and sentence imposed on the accused for the offence punishable under Section 497 of IPC is sustained.*
- vi) *Since the appellant has spent more than 11 years in jail during the trial and after conviction, the period he has already spent in*



jail is set-off for the punishment to be imposed on him for the offence under Section 304 Part II of IPC.

vii) The punishment imposed for the offence under Section 497 of IPC is made to run concurrently with the punishment imposed for the offence under Section 304 Part II of IPC.

viii) The accused is hereby directed to be released forthwith, if he is not required in any case/s.

ix) Send back the trial court records forthwith with a copy of this judgment.

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

**Sd/-
(K. V. ARAVIND)
JUDGE**