



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 25<sup>TH</sup> 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.1289/2019**

**BETWEEN:**

1 . MR. NAGESH  
S/O THANGAVELU  
AGED ABOUT 29 YEARS  
RES. OF MANGAIAH NAGARA,  
HALEBUDANURU VILLAGE,  
KASABA HOBLI,  
MANDYA TALUK, PIN-571 404.

...APPELLANT

(BY SRI H. S. SURESH, ADVOCATE)

**AND:**

1 . STATE OF KARNATAKA,  
BY MANDYA RURAL POLICE STATION,  
REP. BY THE PUBLIC PROSECUTOR,  
HIGH COURT COMPLEX,  
BANGALORE 560 001.

...RESPONDENT

(BY SMT. R. SOWMYA, HCGP)

THIS CRL.A. IS FILED UNDER SECTION 374(2) OF CR.P.C  
BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET  
ASIDE THE JUDGMENT OF CONVICTION DATED 14.06.2019

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by VALI  
MARIMATHU  
Location: HIGH  
COURT OF  
KARNATAKA



AND ORDER OF SENTENCE DATED 15.06.2019 PASSED BY THE PRL.DISTRICT AND SESSIONS JUDGE, MANDYA IN S.C.No.44/2015, CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 302 OF IPC.

|                                                               |            |
|---------------------------------------------------------------|------------|
| <i>DATE ON WHICH THE APPEAL<br/>WAS RESERVED FOR JUDGMENT</i> | 04.02.2025 |
| <i>DATE ON WHICH THE JUDGMENT<br/>WAS PRONOUNCED</i>          | 25.04.2025 |

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, 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

**C.A.V. JUDGMENT**

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

The accused in S.C. No. 44/2015 has preferred this appeal, being aggrieved by the judgment of conviction dated 14.06.2019 and order on sentence dated 15.06.2019 passed by the learned Principal Sessions Judge, Mandya, wherein he has been convicted for the offence punishable under Section 302 of the Indian Penal Code, 1860 (for short, 'IPC') and sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.



50,000/-, in default of payment of fine, to undergo simple imprisonment for a period of six months.

2. The case of the prosecution is that the accused was married to the deceased, Asha, on 16.05.2009. At the time of marriage, the accused is stated to have received gold and silver ornaments as dowry. After the marriage, the accused and the deceased were residing at Halebudanaur village. It is alleged that the accused began suspecting the fidelity of the deceased. On 28.01.2015, at about 9:15 a.m., the accused is said to have closed the door of the house, increased the volume of the home theatre speakers, picked up a quarrel with the deceased, and assaulted her with a bamboo club on her head, right arm, and other parts of the body, causing her to fall to the ground. Thereafter, he allegedly slit her neck with a knife. It is further alleged that, soon after the death of the deceased, the accused abandoned her body in a room, locked the house, and handed over the keys to PW.2 before leaving the premises.



3. PW.1 lodged a complaint with the police, which came to be registered as per Ex.P1. Upon completion of investigation, the prosecution filed a charge sheet against the accused for the offences punishable under Sections 302 and 304-B of the Indian Penal Code, 1860 (for short, 'IPC') and Section 6 of the Dowry Prohibition Act, 1961 (for short, 'DP Act'). The trial Court framed charges against the accused for the offences punishable under Sections 302 and 304-B of IPC and Sections 4 and 6 of the DP Act.

4. The trial Court, upon appreciation of the oral testimonies of the witnesses, documentary evidence, and material objects, recorded a finding of guilt against the accused for the offence punishable under Section 302 of the IPC. However, the accused was acquitted of the charges under Section 304-B of the IPC and Sections 4 and 6 of the DP Act. Consequently, the trial Court sentenced the accused to undergo rigorous imprisonment for life and to pay a fine of Rs. 50,000/-.



5. Sri H. S. Suresh, learned counsel appearing for the appellant, submitted that the case against the accused was built by the prosecution primarily on the basis of the complaint lodged by PW.1. However, PW.1 did not support the case of the prosecution during trial. It is further case of the prosecution that the accused had handed over the house keys to PW.2, but PW.2 denied having received the keys from the accused. PW.5, the father of the deceased, deposed that the relationship between the accused and the deceased was cordial. He further stated that the deceased was engaged in money lending activities and was involved in frequent quarrels, which he admitted in his testimony. PW.5 also stated that the accused had no bad habits, although he expressed suspicion regarding the death of the deceased.

6. It is further submitted that the independent witnesses examined by the prosecution have turned hostile and have not supported the case of the prosecution. There was inordinate delay in recording the



statements of the witnesses. The Investigating Officer failed to conduct *mahazar* at the time of opening the doors of the house and did not seize the lock or the keys. It is contended that the charge levelled against the accused has resulted from lapses in the investigation. PWs.5, 8, 20, and 21, who are the parents and close relatives of the deceased, have also turned hostile and have not supported the prosecution case. Further, as alleged by the prosecution, no witness has spoken regarding the fact of the accused leaving the house at around 9:30 a.m.

6.1 It is further submitted that Exs.P.77 to P.84 were produced by tampering, and the request made by the defence to refer the same to a handwriting expert was denied by the trial Court. The case of the prosecution is based on circumstantial evidence, and the chain of circumstances, as required under law, remains incomplete. As per the evidence of DW.1, the accused was on duty at the relevant date and time of the alleged incident, which is duly corroborated by the testimony of DW.2.



6.2 It is further submitted that the weapons alleged to have been used in the commission of the offence were, at the time of seizure, not found to bear any blood stains; however, blood stains were reportedly detected at a later stage. This discrepancy casts serious doubt on the fairness and transparency of the investigation. It is also submitted that the children of the accused and the deceased were present in the house on the date of the alleged incident. The examination of persons present at the scene of crime is crucial for a fair adjudication. The failure of the prosecution to examine the children, who are material witnesses, raises a serious doubt about the veracity of the case put forth against the accused.

7. Smt. R. Sowmya, learned High Court Government Pleader appearing for the respondent-State, submits that the accused and the deceased were not on cordial terms. It is her submission that there existed a dispute between them, which was resolved through a *panchayat*, as deposed by PW.8. The keys of the house were handed



over to the police by PW.2, which corroborates the contents of Ex.P1-complaint. PW.8 has affixed his signature as a *panch* witness to the *mahazar* drawn for recovery of the keys and has also deposed regarding the presence of blood stains on the said keys. The evidence of PW.9, the forensic expert, establishes that the injuries sustained by the deceased were caused by MO.1, which resulted in her death. It is further submitted that the attendance register relied upon by the prosecution clearly indicates that the accused was absent from duty on the date and time of the incident. She submits that the prosecution has established the presence of the accused at the scene of the crime. Though several witnesses have turned hostile, their signatures on the statements recorded during investigation and on the *mahazar* have not been disputed.

8. We have considered the submissions of learned advocates for the parties and perused the record.



9. The prominent witnesses in the case are PWs.1 to 5, 9, 10, 11, 18, 20, 28 and 29. The case of the prosecution is primarily based on circumstantial evidence.

(i) The prosecution examined PW.1 to establish the complaint, Ex.P.1. This witness deposed that he was a neighbor and knew both the accused and the deceased. He admitted to having registered the complaint. He is also a witness to Ex.P.2, the spot mahazar, and the recovery of MOs.1 to 8. However, while he supported the case of prosecution in regard to Ex.P.2, he denied the suggestion made by the prosecution that he heard a hue and cry emanating from the house of the accused and that he saw the accused leaving the house at 9:30 a.m. With respect to Ex.P.1, he stated that the police had taken his signatures on blank papers, but he supported the contents of Ex.P.2, the spot mahazar.

(ii) PW.2 was examined by the prosecution to establish the handing over of the keys to the house. According to the version of prosecution, after locking the



house, the accused handed over the keys to this witness, who in turn handed them over to the police. However, this witness did not support the case of prosecution and denied the suggestion that she received the keys from the accused and subsequently handed them over to the police.

(iii) PWs.3 and 4 were examined to establish the seizure of the belongings of the deceased, as per Ex.P.33. However, both witnesses denied the seizure taking place in their presence and, therefore, did not support the case of the prosecution.

(iv) PW.5, the father of the deceased, was examined to establish that the relationship between the accused and the deceased was not cordial and that the accused had demanded dowry, subjecting the deceased to harassment in that regard. While this witness initially deposed in support of the prosecution, he did not withstand cross-examination. During cross-examination, he admitted that the relationship between the accused and the deceased was, in fact, cordial, and there were no



matrimonial quarrels or misunderstandings between them. He further stated that there was no dowry demand, and the gold and silver ornaments given were customary and made out of their own free will and wish. He acknowledged that the deceased was involved in a money-lending business along with members of the Sthree Shakthi Sanga, which led to financial disputes with others. The witness also testified that the conduct of the accused was good. He admitted that statements made before the Tahsildar, as per Ex.D.1, were made under mental pressure. Additionally, he confirmed that the accused did not suspect the fidelity of the deceased. Despite being re-examined by the prosecution and subjected to further cross-examination by the defense, no significant evidence was elicited from this witness to support the case of prosecution.

(v) PW.9, the doctor who conducted the post-mortem on the body of the deceased, was examined to establish the cause of death. He certified the external



injuries and confirmed the cause of death. He stated that injury No. 5 was the fatal injury and caused immediate death, and that it was inflicted using MO.1. He further stated that injuries Nos. 7 and 1 could have been caused by using MO.2. This witness has issued Exs.P.48 and P.51, which records his findings.

(vi) PW.10 is the forensic expert and author of Ex.P.54.

(vii) PW.11 was examined to prove Exs.P.2 and P.3. He deposed that a woman had handed over the keys of the house to the police, and the police subsequently opened the door using those keys. He further stated that the woman was present at the crime scene. However, this witness did not withstand cross-examination. He denied the contents of Ex.P.2 and claimed that the police had taken his signatures on blank papers. He also denied that the woman handed over the keys to the police. Additionally, he denied making the statement before the police as recorded in Exs.D.4 and D.5. PWs.12 and 13



were examined to prove Exs.P.56 and P.57. Both witnesses did not support the case of prosecution, denying their signatures on Exs.P.56 and P.57.

(viii) PW.18 explained the course of the investigation, beginning from the registration of the FIR, the recording of statements, the collection of evidence, the seizure of items, the submission of material objects for expert opinion, and culminating in the filing of the charge sheet.

(ix) PW.20, the mother of the deceased, was examined to establish the motive, specifically the demand for dowry and the suspicion regarding the fidelity of the deceased. However, this witness did not support the case of prosecution.

(x) PW.28 was examined to establish the presence of the accused at the crime scene and to refute the defense contention that the accused was at work. PW.28, who was working as the Secretary of APMC, Maddur, testified that housekeeping services were entrusted to



Siddeswara Cleaning Services, Mandya, and the accused was employed under this outsourcing agency. He stated that Siddeswara Security Services maintained an attendance register, wage register, and records for PF and ESI. The details of payments towards wages, PF, and ESI, maintained by Siddeswara Security Services and submitted to APMC, were produced and marked as Exs.P.77, P.80, P.83, and P.84. During cross-examination, PW.28 was suggested that the entries against the name of the accused in the registers had been altered by overwriting. However, this witness expressed difficulty in accepting the suggestion, as the register was maintained by Siddeswara Security Services.

(xi) PW.29, the Manager of Siddeswara Security Services, was examined to establish the employment of the accused and his presence at the crime scene. PW.29 admitted that the accused was employed under Siddeswara Cleaning Services and was assigned to cleaning duties at APMC, Mandya. He testified that the



accused worked with Siddeswara Cleaning Services from 01.01.2015 to 27.01.2015. However, he denied the suggestion of prosecution that Ex.P.77, which records the employment details of the accused, had been altered to reflect his presence at work.

10. PW.1 reported the incident of the death of the deceased through Ex.P.1. The prosecution has based its case primarily on the contents of Ex.P.1. According to Ex.P.1, the accused increased the volume of the home theatre sound system, and PW.1 allegedly heard the deceased screaming. Following this, the accused is said to have locked the house and handed over the keys to PW.2. Additionally, it was noted that the shirt and pants worn by the accused were blood-stained. Upon being questioned by PW.1, the accused allegedly confessed to killing his wife by assaulting her with a bamboo club and a knife. PW.1, the complainant, and Sharadamma, to whom the keys were reportedly handed over, were examined as PWs.1 and 2 respectively. Both witnesses, however, denied the versions



of events as presented by the prosecution. PW.1, though he admitted his signature on Ex.P.1, claimed that the police had taken his signatures on blank papers. He further stated that he had seen strangers near the house of the accused. PW.1 also mentioned that the deceased was involved in a money-lending business and had disputes related to financial transactions. Similarly, PW.2 denied receiving the keys from the accused or handing them over to the police.

11. PW.11, the panch witness to Exs.P.2 and P.3, initially stated in his examination-in-chief that a woman had handed over the keys of the accused to the police. However, in cross-examination, he denied making such a statement, claiming that he had not seen any woman handing over the keys to the police. The evidence of PWs.1, 2, and 3 does not corroborate the case of prosecution with regard to the presence of the accused, the killing of the deceased, and the subsequent locking of the house and handing over of the keys to PW.2.



12. The prosecution seized two keys and subjected them to forensic examination, as per Ex.P.54. Both keys were found to have blood stains. However, PW.18 admits that the key to the front door was not stained with blood. Considering that one of the keys was not stained, it raises a concern about how blood stains could be traced on both keys during the forensic examination. This casts doubt on the diligence of the investigation conducted by the prosecution. Furthermore, since the presence of the accused at the crime scene has not been conclusively established, further discussion on this aspect is unnecessary.

13. Ex.P.2 is the spot mahazar, which records the opening of the door using the keys with PW.2. It also documents the presence of blood stains on the exit door. However, PW.11 has denied the contents of Ex.P.2. While Ex.P.2 is signed by another witness, the prosecution chose to examine PW.11. The evidence of PWs.1, 2, and 11 fails to support the case of prosecution regarding the sequence



of events specifically that the accused, after killing the deceased, locked the house and handed the keys to PW.2. It also fails to establish that the police, upon opening the lock, found blood stains on another exit door. While the contents of Ex.P.2 can be accepted to the extent that they confirm the presence of the dead body and blood stains within the house, they do not suggest or establish the presence of the accused or that the accused caused the death.

14. One of the circumstances heavily relied upon by the prosecution to prove its case is the recovery of the bloodstained clothes of the accused, as recorded in Ex.P.56. Ex.P.56 records the seizure of the clothes at the police station and is witnessed by PWs.12 and 13. The prosecution examined PWs.12 and 13 to establish Ex.P.56 and Ex.P.57. Both witnesses deposed that the bloodstained clothes were seized at the police station. However, PW.12 stated that Ex.P.56 was signed near the house of the accused, where the clothes were allegedly



seized, and further deposed that the clothes were actually seized inside the house of the accused. This inconsistency in the testimonies of PWs.12 and 13 does not support the validity of Ex.P.56. Nevertheless, the presence of blood stains on the clothes of the accused is corroborated by Ex.P.54, which certifies the presence of 'B' group human blood. The accused has not provided an explanation for how his clothes became bloodstained. While this raises a doubt about the involvement of accused, mere suspicion alone is not sufficient to prove the guilt of the accused unless it is substantiated by further evidence and corroborated by the facts of the case.

15. PW.1 stated that the accused visited the hospital when the deceased was taken there. The deceased was found in a pool of blood, and as a result, her body and clothes were stained with blood. When the accused visited the hospital and saw the deceased, it is plausible that his clothes could have been stained with blood. It is reasonable to assume that the accused may have touched



his deceased wife during his visit to the hospital, which could explain the bloodstains on his clothes.

16. The defence has pleaded alibi, asserting that the accused was at work at the time of the incident. To support this claim, the prosecution examined PWs.28 and 29. PW.29 was the Manager of Siddeswara Security Services, where the accused was employed, and Siddeswara Cleaning Services provided services to APMC. PW.28 was the Secretary of APMC, Maddur. PW.29 testified that the working hours for their employees were from 10:00 a.m. to 5:00 p.m., except for the employees working as sweepers. It is undisputed that the accused was employed with PW.29. According to PW.29, employees working the morning shift did not sign the attendance register. He further stated that he would inquire into the attendance of his employees throughout the day and subsequently enter the attendance in the register. Ex.P.77 is the attendance register. PW.29 was suggested that initially, the attendance was marked as 'P'



and later changed to 'A'. He stated that the original of Ex.P.77 was submitted to APMC, Maddur. PW.28 admitted that the original of Ex.P.77 was submitted by PW.29 to APMC. However, Ex.P.77 produced in court is a Xerox copy of the attendance register.

The defence contended that the accused was present at work, and the attendance was later altered by overwriting. The fact that the prosecution produced a xerox copy rather than the original register, which was with PW.28, raises a suspicion. Moreover, when the defence raised the issue of overwriting, the prosecution should have produced the original register available with PW.28 or subjected it to forensic examination. A close examination of Ex.P.77 reveals that on 28.01.2015, against the name of the accused, 'P' was initially marked but was later changed to 'A'.

17. The prosecution has produced Ex.P.83, the contribution history for the month of January 2015, made to ESI by Siddeswara Security Services. The contribution



for January 2015 is shown for 27 days, and the total wages paid also reflect 27 days of work. Ex.P.83 is relied upon to prove that the accused did not attend work on 28.01.2015, the date of the incident. Similarly, the prosecution has produced the wage register and muster roll (Ex.P.82) to corroborate Ex.P.77, the attendance register, in order to establish that the accused was absent from work on 28.01.2015. When Exs.P.77, P.82, and P.83 are read together, they establish that the accused attended work for 27 days but was absent on 28.01.2015, the date of the incident. This would clearly disprove the alibi of the accused.

The finding of the trial court that the accused did not attend work on 28.01.2015 cannot be said to be erroneous. However, Ex.P.84, filed by Siddeswara Security Services for the month of January 2015 and uploaded on 02.02.2015, contradicts Exs.P.77, P.82, and P.83. As per Ex.P.84, the accused was paid a salary for the entire month, and the returns filed for the EPF reflect payment of



wages for the entire month. Even though Ex.P.84 may not be entirely accurate, since the accused was in custody after January 2015 and would not have been paid wages for the entire month, it remains significant in light of the overwriting found in Ex.P.77. The possibility that the accused worked on 28.01.2015 cannot be ruled out beyond doubt. The comparative analysis of Exs.P.77, P.82, P.83 and P.84 raises a doubt regarding the case of prosecution that the accused was absent from work on 28.01.2015. When the version of prosecution and the evidence produced in support of it raise a reasonable doubt, it is unsafe to rely on such evidence.

18. Ex.P.77, for multiple reasons, suffers from doubt. Firstly, due to the overwriting on the relevant date, as observed above, it prima facie appears that initially, the attendance was marked as 'P' (present) and later changed to 'A' (absent). Secondly, the evidence of PW.29 states that the original attendance register was in the custody of PW.28, and PW.28 only provided a xerox copy of the



attendance register. The prosecution has failed to explain why the original attendance register was not seized during the investigation. Thirdly, the attendance register, which suffers from a dispute regarding overwriting, should have been subjected to forensic examination, which the prosecution failed to do. Whether 'A' was overwritten as 'P' or 'P' was overwritten as 'A' requires an answer by expert, which is absent in the present case. Once a court entertains a doubt regarding the genuineness of a document, it is unsafe to rely on it.

Although the conclusion of trial court that the accused failed to prove the alibi based on Exs.P.77, P.82, and P.83 could be one of the possible views, the corroboration of these documents with Ex.P.84 presents an alternative view that the accused was indeed present at work on the relevant day. In this regard, two views are possible. It is a well-established principle of law that when more than one view is possible, and the evidence on record does not conclusively establish the guilt of the



accused, the view favoring the accused should be accepted. Applying this principle, it cannot be held that the defense has failed to prove the plea of alibi. Accordingly, the plea of alibi is accepted, and it is held that the defense has successfully established and proved the plea of alibi.

19. The trial court heavily relied on the evidence of PWs.1 and 2, as well as Ex.P.1. However, as discussed in the preceding paragraphs, it has been concluded that Ex.P.1 is not proved, and PWs.1 and 2 have not supported the case of prosecution. The trial court failed to address the hostility of PWs.1 and 2, making an inference of potential influence or tampering highly speculative. Additionally, the trial court did not take into account the fact that the accused was arrested on 29.01.2015 and remained in custody thereafter. Similarly, while PW.5 initially supported the prosecution in cross-examination, he did not withstand the cross-examination, and his evidence, in its entirety, does not substantiate the case of prosecution. The possibility of PW.5 being won over by the



defense is also highly improbable. The accused has remained in custody throughout the proceedings from the date of his arrest, the evidence of PWs.1, 2, and 5 must be considered in its proper context, without the imposition of undue inferences or improbabilities.

20. Furthermore, the prime prosecution witnesses, PWs.1 and 2, have categorically deposed that on the date and time of the alleged incident, they observed strangers visiting the deceased at approximately 9:30 a.m. However, the prosecution has failed to pursue this aspect further. In light of this, the possibility of the involvement of third parties in the incident cannot be ruled out.

21. The entire case of the prosecution is based on circumstantial evidence. The circumstances sought to be established by the prosecution to link the accused to the crime are incomplete. Unless all the circumstances are interconnected and form a complete chain, a conviction cannot be sustained.



22. Though the trial court was justified in recording a conviction, based on Exs.P.77, P.82, P.83, and P.84, along with the testimony of PWs.28 and 29, however, re-examining the evidence of PWs.28 and 29, an alternative view pointing to the presence of the accused at the workplace has been established. Given that another plausible view emerges from the appreciation of the evidence, the order of the trial court warrants interference by this Court.

23. Accordingly, the following;

- (i) The appeal is allowed.
- (ii) The judgment of conviction dated 14.06.2019 and order on sentence dated 15.06.2019 passed by the Principal District and Sessions Judge, Mandya in S.C.No.44/2015 is set aside.
- (iii) The appellant/accused is hereby acquitted of all the charged offences.
- (iv) The Registry is directed to communicate this order to the concerned Jail Authorities and the



Jail Authorities are hereby directed to release the accused forthwith, if he is not required in any other case.

- (v) If the accused has deposited the fine amount before the trial Court, the same shall be refunded on proper identification.
- (vi) Registry is directed to send back the trial court records with a copy of this judgment.

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

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

MV