



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE K. V. ARAVIND

CRIMINAL APPEAL NO. 725 OF 2017

Between:

Ashoka
S/o Vishakantegowda
Aged about 36 years
R/at Mohan House
Old B.M.Road, Hirisave Town
Hassan-573124.

...Appellant

(By Smt. Budrunnnisa, Advocate for
Sri Chandrahasa Rai B, Advocate)

And:

Digitally signed
by VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA

State by Hirisave Police Station
Channarayapatna
High Court Building Complex
Bengaluru-560 001.
(Represented by Learned
State Public Prosecutor)

...Respondent

(By Sri Vijaykumar Majage, SPP-II)

This Criminal Appeal is filed u/s. 374(2) Cr.P.C., praying to set aside the judgment and order dated 16.03.2017 passed by the IV Additional District and Sessions Judge, Hassan District (sit at Channarayapatna) in S.C.No.273/2014-convicted the appellant/accused No.1 for the offence p/u/s 302, 498(a), 201 of IPC.



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)

This appeal is filed by accused No.1 in S.C.No.273/2014 on the file of IV Additional District and Sessions Judge, Hassan (sitting at Channarayapatna).

2. The prosecution case is about homicidal death of a woman by name Jyothi wife of accused No.1. The marriage of accused No.1 with Jyothi was held in the year 2000. After the marriage they resided at Bengaluru for a few years and they begot two daughters namely Spandana and Keerthana. Later on accused No.1 shifted his family to Hirisave of Channarayapatna taluk. They rented the house belonging to PW2-Mohan. Accused No.1 was running a driving school. It is



stated that in the course of time he developed contact with accused No.2 Sunitha and wanted to marry her. In this regard there used to take place quarrels between accused No.1 and his wife Jyothi as the latter did not agree for her husband marrying accused No.2. The actual incident took place on 08.04.2014. Jyothi was found dead in the kitchen of her house at Hirisave. PW1 the father of Jyothi gave a report of the incident to the police. The investigation resulted in charge sheet being filed against four accused persons. Accused Nos.3 and 4 are the parents of accused No.1. The allegation against accused Nos.2 to 4 is that they instigated accused No.1 to cause the death of Jyothi.

3. The prosecution examined in all 28 witnesses. Ex.P1 to P24 were the documents marked by the prosecution. The appellant/accused No.1 examined himself as DW1 and Exs.D1 to D21



were marked on the defence side. MO1 to MO3 are the material objects marked during trial.

4. On assessment of evidence the trial court acquitted accused Nos.2 to 4 of the offences charged against them, but recorded conviction against accused No.1 for the offences punishable under Sections 302, 498A and 201 of IPC. Accused No.1 was sentenced to life and fine of Rs.25,000/- for the offence under Section 302 of IPC, rigorous imprisonment for two years and fine of Rs.5,000/- for the offence under Section 498A of IPC and rigorous imprisonment for two years and fine of Rs.5,000/- for the offence under Section 201 of IPC, ofcourse with default imprisonments in connection with all the offences in case of failure to pay the fine amount.

5. The State has not preferred any appeal questioning the acquittal of accused Nos.2 to 4. For this reason it is enough to examine the



findings of the trial court for recording conviction against accused No.1. The trial court has recorded reasons that the motive for the incident was that the deceased Jyothi did not agree for her husband's desire to marry accused No.2. The evidence of PW2, 16 and 18 in particular established the differences between accused No.1 and the deceased, and the frequent quarrels in that regard. Ex.P15 is an important document which discloses that the deceased herself wrote it down narrating the manner in which she was being harassed and all the previous attempts made by accused No.1 to kill her. The death was due to manual strangulation and the defence version that death occurred due to electrocution was not believable. So the circumstances as to involvement of accused No.1 in the death would get established beyond reasonable doubt.



6. Learned counsel for the appellant/accused No.1 Smt. Budrunnisa assailed the findings by arguing that the case was based on circumstantial evidence. The motive for the incident has not stood established even though the prosecution examined PWs.1, 14, 16 and 18. On the day of incident the accused was not in the house. The evidence of PW2 should not have been relied upon because the statement was recorded by the investigating officer after 15 days. The conduct of the accused was very much important because he was very much present in the house and if his involvement was really there, he would have absconded. Ex.P15 cannot be relied upon at all and it is not proved that the said letter was written by Jyothi. As there are a number of doubtful circumstances, accused No.1 could not have been convicted and hence the appeal deserves to be allowed and the appellant/accused No.1 acquitted.



7. On the other hand Sri Vijaykumar Majage, learned SPP-II argued that Ex.P15 was nothing but a death note which has been proved to be in the handwriting of Jyothi. The evidence of PW2 cannot be disbelieved at all and his cross examination shows that he has not been discredited in any way. The defence came up with false versions that accused No.1 was not in the house at the time of incident, which has not been proved. Then accused No.1 contended that his wife died of electrocution which the medical evidence ruled out. The daughters of accused No.1 and the deceased-Jyothi have given evidence about the manner in which their mother was being ill-treated by their father and the previous attempts made by him to kill their mother. They have fully supported the prosecution case. There are not much circumstances to be established. At the best there were two circumstances which have been proved. In this view the reasons given by the trial



court to convict accused No.1 are proper and do not suffer from any infirmity. He argued for dismissal of the appeal.

8. Given a relook to the entire evidence, it is found that there is no dispute about the fact that accused No.1 and the deceased Jyothi lived together at Bengaluru for a few years after their marriage, and later on they shifted the family to Hirisave of Channarayapatna taluk. PW16 and 18 are the daughters of accused No.1 and Jyothi. It is also not in dispute that they rented the house of PW2 at Hirisave.

9. PW17 Dr. Praveen Kumar was the doctor who conducted post mortem examination and Ex.P.17 is the post mortem report. Before dissecting the body he noticed the presence of following five ante mortem external injuries.



- 1. Faintly visible 3 abrasions of less than 0.5cm present over the right side of neck with space in between*
- 2. Contusion measuring 1 x 0.5cm present over the inner aspect of right lower lip*
- 3. Laceration measuring 3 x 2cm present over the medial aspect of lower half of left little finger*
- 4. Multiple abrasions (6) present over the lateral aspect of left wrist (glass bangle injuries)*
- 5. Frothy fluid of brown colour oozing from mouth, face is deeply congested, swollen above neck line.*

His opinion was that the death was due to *asphyxia* consequent to manual strangulation and the death might have occurred about 18 to 24 hours prior to conducting post mortem.

10. PW1 is the father of Jyothi. His evidence discloses that he had come to know from his daughter Jyothi that accused No.1 was insisting her to give consent for his marrying accused No.2



and about threats to kill her if she did not agree for the marriage. As regards the incident, his evidence is that on 08.04.2014 he received a telephone call from his granddaughter and came to know about death of his daughter Jyothi. Actually his evidence is that accused No.1 himself asked one of his daughters to make a call to him and inform that Jyothi had died due to electrocution. On learning this, immediately he came to the house and saw the dead body in the kitchen. He also observed injury marks on the neck, bleeding from the nose and some other injuries. He suspected the involvement of all the accused and therefore went to police station and gave a report as per Ex.P1. Incidentally he also spoke about a panchayat convened by him in the presence of Papanna, Seenanna, Chandranna, Krishnanna, Krishnegowda, Patel Papanna, an advocate by name Umesh and PW2 Mohan.



11. PW2-Mohan has stated that accused No.1, his wife and children were living in a house belonging to him on rent. Accused No.1 was running a driving school. There used to take place quarrels between accused No.1 and his wife for the reason that he had illicit relationship with accused No.2. Jyothi had told him about this relationship. He also came to know from Jyothi that once accused No.1 took her to a hill called Bookana Betta and made an attempt to kill her by pushing her down the hill for the reason that she had not given consent for the second marriage. She had also told him that her husband had given her sleeping tablets with an intention to kill her. With regard to the incident dated 08.04.2014, his specific evidence is that he saw accused No.1 using his car two or three times and about 6.00pm he heard the shouts of PW16 and 18. Immediately he and his son went to the house of accused No.1 and saw Jyothi being dead. In this regard he



stated that in the afternoon of that day he heard the shouts of Jyothi and that the television volume was kept high. At that time the children i.e., PW16 and 18 were not in the house and around 1.00pm accused No.1 went out of the house. Thereafter there was no any sort of sound from the house of accused No.1. His further evidence is that at 6.00pm accused No.1 returned home with his children and they shouted that Jyothi was dead. Immediately he went there and then accused No.1 told him that Jyothi died due to electrocution. But he suspected that accused No.1 might have killed her by pressing the neck.

12. PWs.3 to 7 have all stated about participating in a panchayat to advise accused No.1 after an attempt being made by accused No.1 to kill his wife. They have stated that the quarrels between the husband and wife were on account of illicit relationship between accused No.1 and



accused No.2 and they had infact advised him to desist from having relationship with accused No.2.

13. PW14 is the mother of the deceased. She too states about harassment on her daughter by accused No.1 after he developed relationship with accused No.2 and an attempt having been made by accused No.1 to push down his wife Jyothi from a hill.

14. PW16 and PW18 are the children. Both of them have consistently stated that accused No.2 used to come to their house. Their father developed acquaintance with accused No.2 when he was driving a school bus. In this background their father and mother were quarreling. They have spoken about three previous attempts made by accused No.1 to kill their mother. PW16 has in particular stated that on 05.02.2014 accused No.1 and 2 were talking inside a room of their house. After accused No.2 went out there arose a quarrel



between her parents. When they were all sleeping during night hours, she saw her father pressing a pillow on the face of her mother. She and her sister woke up and requested their father to leave their mother. He stopped pressing the pillow and then said that he would not repeat it in future, yet there used to take place quarrels. After two weeks of this incident, around 7.00pm, her father slapped her mother due to which she fell down unconscious. When she sprinkled the water on her mother she woke up. Then with regard to other incident she has stated that a few days after the second incident, father sent her and her sister (PW18) to grandmother's house and took their mother to Bookana Betta and made an attempt to kill her. But some how mother escaped and came to Hirisave. After this incident took place, her grandfather i.e., PW1 convened a panchayat to advise their father. But in the said meeting also accused No.1 left that place stating that he would



marry accused No.2. In regard to the actual incident, father took her and her sister to the house of grand parents i.e., accused No.3 and 4 saying that his sister Manjula had arrived from Bombay. When they went there, they did not see Manjula. Then their father went out in a car. She made a call to her mother but the latter did not receive it. Around 4.00 or 4.30pm, father came and when she asked him as to why mother did not pick the call, she saw her father trembling. Then he brought her to Hirisave leaving her sister in the farm house itself. When she reached home she saw television being on. Father asked her to go inside and light the candle. She refused to go inside the house alone and asked the father to come with her. She only went inside and saw her mother having fallen down in the kitchen. Mother was found dead and she told the father that he only had killed the mother. To this he replied that she died because of electrocution and also asked



her to tell others the reason for death to be electrocution. Thereafter she made a telephone call to her grandfather Shankaregowda i.e., PW1. PW18 has also given evidence in the same manner disclosing the previous attempts made by her father on the life of her mother.

15. PW28 is a handwriting expert. Her evidence is that she compared the admitted handwriting of Jyothi with contents of Ex.P15 and gave opinion that the handwriting found in Ex.P15 tallied with the admitted handwriting of deceased Jyothi.

16. Now if Ex.P15 is seen, it contains a full narration of strained relationship between accused No.1 and Jyothi because of the conduct of accused No.1 in having relationship with accused No.2. It also discloses that accused had taken Jyothi to Bookana Betta and asked to die as he wanted to marry accused No.2. She refused when accused



No.1 insisted her too much to die, she said that she would die after seeing her children and therefore she returned home. Again accused No.1 took her in a car to Channarayapatna and on the way she was asked to drink juice. But she did not drink. She was beaten at that time by accused No.1. After they returned home, accused No.1 gave her tea mixed with sleeping tablets. Thus Ex.P15 contains many attempts being made by accused No.1 to kill her.

17. It is not necessary to refer to the evidence of other witnesses including the evidence in regard to investigation. Over all assessment of the evidence shows that the motive for the incident being the desire of accused No.1 to marry accused No.2 and quarrels in this connection has stood established. Though the evidence of PW1 in regard to motive is based on what he had come to know from the deceased Jyothi, the evidence of



other witnesses PW2, 16 and 18 clearly shows frequent quarrels. PW16 and PW18 are the children of accused No.1 and the deceased. They do not appear to have given false evidence to implicate their father. The evidence of PW2 is also believable. The evidence of other witnesses who participated in the panchayat is also believable. All these witnesses have not been discredited in the cross examination. The main defence version is that death was due to electrocution, which is found to be false one; the evidence of the doctor who conducted post mortem examination is very clear that the death occurred due to manual strangulation. The evidence of the doctor has not been impeached.

18. The defense evidence adduced by the appellant as DW1 does not inspire confidence to place reliance on it in view of consistent evidence



brought forth by the prosecution especially by examining PWs.2, 16 and 18.

19. It is true that there are no eye witnesses to the incident. As regards the actual incident dated 08.04.2014, the evidence of PW2 is more important because it was he who saw accused No.1 being inside the house till 1.00pm and also heard a quarreling noise between accused No.1 and the deceased. PW17 the doctor has stated that the death might have occurred about 18 to 24 hours before the post mortem examination which was conducted on 09.04.2014 in between 12.50 and 01.50pm. If the evidence of PW2 is seen, accused No.1 went out of house at 1.00pm on 08.04.2014 and the sound of the deceased was stopped thereafter. Therefore the evidence of PW17 with regard to approximate time of death appears to be before 1.00pm on 08.04.2014. If PW2 established the presence of accused No.1 inside the house, he



alone should explain as to what happened inside the house if any reason other than manual strangulation for the death, ofcourse theory of defense version as regards death by electrocution was an impossibility. Merely because some broken electric bulb was seen at the place of incident, no inference can be drawn that death was on account of electrocution. There is no reason to discard the evidence of PW16 and PW18. The very fact that both of them were taken to the house of accused No.3 and 4 in the morning hours of 08.04.2014, and accused No.1 again returning home and PW2 establishing the quarrel between accused No.1 and the deceased till 1.00pm, all stare at accused No.1.

20. Thus seen the involvement of accused No.1 in the homicidal death of his wife is very much forthcoming. The circumstances discussed above indicate his motive to kill the deceased.



Therefore we do not find any good ground to take a view different from the view taken by the trial court. There are no grounds to give benefit of doubt to accused No.1. Prosecution has been able to prove its case beyond reasonable doubt. Therefore appeal is dismissed confirming the judgment of the trial court.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE

KMV
List No.: 1 Sl No.: 13