



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH 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. 491 OF 2018

Between:

Jaharulla Islam @ Jahar
Aged about 28 years,
S/o Jafar Ali
R/a C/o Bariyanda Sanjan
M.Badaga Village, Madikeri Taluk
Kodagu-571201

Permanently residing at
Latakhat, Balburi,
Dhula Darrang, Assam-784146.

(By Sri Nagaraja Reddy D., Advocate)

...Appellant

And:

State of Karnataka
By the Circle Inspector of Police
Madikeri Rural Circle
Madikeri-571201
Represented by Special Public Prosecutor,
High Court Building
Bengaluru.

...Respondent

(By Sri Vijay Kumar Majage, SPP-II)

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VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA



This Criminal Appeal is filed u/s.374(2) Cr.P.C praying to set aside the judgment and order of conviction dated 22.01.2018 passed by the I Additional District and Sessions Judge, Kodagu, Madikeri, in S.C.No.58/2017 - convicting the appellant/accused for the offence p/u/s 302 and 309 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 by the accused who has stood convicted and sentenced for the offences under Sections 302 and 309 of IPC. The I Additional District and Sessions Judge, Kodagu, before whom trial was held, has sentenced the accused for life and fine of Rs.5,000/- for the offence under Section 302 of IPC, and simple imprisonment for one year and fine of Rs.2,000/- for the offence under Section 309 of IPC.

2. The accused faced trial for the allegation of having caused the death of his wife and attempting to commit suicide. They were from Assam and working in



the coffee plantation belonging to PW1. The accused had suspicion about his wife's character and this was the reason for frequent quarrels between them. The specific allegation is that on 29.12.2016 around 3.30 A.M accused assaulted his wife with a sickle in the courtyard of his wife, and then went inside the house and slit his throat with the same sickle to end his life. FIR came to be registered at the instance of PW1 and then investigation followed charge sheet being filed.

3. The prosecution examined nine witnesses. 16 documents and ten material objects were marked during examination of the witnesses. The trial court held that the prosecution was able to prove its case relying upon the testimonies of the prosecution witnesses, and more particularly to the evidence of PW2 who was an eyewitness. It is held that the evidence of PW2 is not diluted during cross-examination and his evidence finds corroboration from the testimonies of PWs1, 3 and 4 who were res-gestae and circumstantial witnesses. PWs6 and



7 also have supported. PWs8 and 9 being the official witnesses have strengthened the evidence further.

4. We have heard the argument of Sri Nagaraja Reddy D, learned counsel for the appellant and Sri Vijay Kumar Majage, SPP-II, for the State.

5. Sri Nagaraja Reddy made it a point of argument that accused had no motive to kill his wife. The trial court has held that PW2 is an eyewitness but such an inference cannot be drawn and his evidence makes it very clear that he was not an eyewitness. Moreover his evidence contains self contradictions. In this view of the matter, the trial court should not have recorded conviction.

6. Sri Vijay Kumar Majage argued that there were 19 stab injuries on the person of the deceased. The motive was that he suspected illicit relationship of the wife. PW2 is an eyewitness and his evidence clearly discloses that he saw the incident of killing the deceased and accused making an attempt to end his life. The



judgment of the trial court contains sound reasons and therefore appeal is worth rejection.

7. If the entire evidence is assessed again what is found is that the accused and his wife were living in the labour colony of the estate belonging to PW1. As per the testimony of PW1 he was aware of frequent quarrels between the accused and his wife. On 29.12.2016 at 4.00 A.M he came to know that accused had assaulted his wife with a sickle and inflicted injuries to himself. Soon after he came to know of this he came near the house of the accused, saw the wife of the accused being dead having sustained bleeding injuries and also saw the accused in unconscious state as he had sustained bleeding injuries on his neck. Immediately he secured an ambulance and arranged for taking the accused to the hospital. Later on he came to know that the reason for the incident was that accused was suspecting the character of his wife. In the court he identified the sickle-MO1 which he had seen for the first time at the place of incident.



8. PW2 was an employee in the estate of PW1. He knew about the quarrels between the accused and his wife and had once advised them to lead a happy life. About the incident his evidence is that at about 3.00 AM on 29.12.2016 he came to his house to have a cup of tea. When he was preparing tea he heard somebody crying like a cat and immediately he came out of his house with a torch in his hand. He saw the wife of accused having fallen down in front of her house. The accused was standing there with a sickle in his hand. He stated that he saw the accused assaulting his wife with that sickle. Then he asked the accused what he was doing. Accused thereafter went inside the house and locked the door. By that time the neighbours came to the place. Thereafter the door was broken open and saw the accused having fallen unconscious sustaining injury on his neck. PW1 came to that place. Then ambulance was secured and accused was shifted to hospital.



9. PW3 is the wife of PW2. She was not an eyewitness. She has stated that her husband went out when he heard the sound of a cat. Her husband returned home little later and told her about the death caused by the accused. By that time many people gathered. The door of the house of the accused was opened forcibly and then she too saw the accused having inflicted an injury on his throat with a sickle. She has also spoken about arrival of PW1 to the spot and shifting the accused to the hospital. PW4 has also given evidence in the same manner.

10. PW6 is the doctor who conducted post mortem examination and he noticed 19 ante mortem external injuries on the body of the deceased. He gave opinion that death occurred due to shock and hemorrhage consequent to multiple injuries. He also gave opinion that injuries that he noticed were possible to occur if the deceased had been assaulted with a sickle-MO1.



11. PW7 is the doctor who examined the accused at 5.30 AM on 29.12.2016 and noticed three injuries on the neck and one injury on the leg. Ex.P10 is the wound certificate.

12. If the entire evidence is assessed, it can be said that none of the witnesses mentioned above was discredited in the cross-examination. PW2 is an eyewitness and it cannot be said that he was not an eyewitness to the incident of killing the deceased. His evidence is quite acceptable as he was a night watchman in the estate. Being a watchman it is quite possible that he came over to his house to have a cup of tea around 3.00 A.M and for that reason he was able to hear the yell of the deceased which made him come out of the house and see the incident. His testimony is not worth rejection for any reason. Though PWs1, 3 and 4 are not eyewitnesses, they came to spot immediately after the incident and saw the dead body of the deceased and also the accused in unconscious state with injuries. PW1



arranged for ambulance. As rightly held by the trial court these three witnesses are res-gestae witnesses and their evidence assumes relevancy. Medical evidence is also supportive. Motive is also established. The presence of the accused at the place of incident was proved. If he was not the one who inflicted injuries to his wife, the onus was on him to explain as to how his wife died due to injuries in his presence. Failure on his part further strengthens the prosecution case. Therefore the prosecution has been able to prove its case beyond reasonable doubt. This was a clear case of murder and an attempt to commit suicide. There are no reasons to interfere with the judgment of the trial court. Hence, appeal is dismissed.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

Sd/-
(K. V. ARAVIND)
JUDGE