

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH 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.1046/2018

BETWEEN:

1 . SRI. MOHAMMED SAKLIN,
S/O MOHAMMED SADIQ,
AGED ABOUT 25 YEARS,
RESIDING AT 16TH CROSS,
BASHA NAGAR,
DAVANAGERE TALUK AND DISTRICT-577001.

...APPELLANT

(BY SRI SIDDAPPA B. M., ADVOCATE)

AND:

1 . STATE BY AZAD NAGAR POLICE STATION,
DAVANAGERE-577001.
BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BANGALORE-560001.

...RESPONDENT

(BY SRI VIJAYKUMAR MAJAGE, SPP-II)

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 26.09.2017

AND ORDER OF SENTENCE DATED 27.09.2017 PASSED BY THE
I ADDITIONAL DISTRICT AND SESSIONS JUDGE, DAVANAGERE
IN S.C.No.67/2016 - CONVICTING THE APPELLANT/ACCUSED
FOR THE OFFENCE P/U/S 302 OF IPC.

<i>DATE ON WHICH THE APPEAL WAS RESERVED FOR JUDGMENT</i>	18.02.2025
<i>DATE ON WHICH THE JUDGMENT 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)

This appeal has been filed by the accused/appellant
against the judgment and order of conviction in S.C.
No.67/2016 passed by the I Additional District and
Sessions Judge, Davanagere, whereby the accused has
been convicted for the offence under Section 302 of the
Indian Penal Code 1860 (hereinafter referred to as 'IPC'

for short) and sentenced to life imprisonment with a fine of Rs.25,000, in default of which he should undergo six months of imprisonment.

2. The prosecution case is that the deceased Mehaboob Rehman was married to PW-15, the sister of the accused. The deceased, who was employed in Bengaluru, had come to Davanagere to visit his sister and parents. On 25.11.2015 he visited his parents at Harihara and returned to Davanagere where he met PW-12, the President of the Masjid, along with his friend PW-13 to resolve a family dispute concerning his wife. The relationship between the deceased and his wife, who is the sister of the accused, was strained. Later he met the accused at Atheeq Tea Hotel. While having tea the accused allegedly made derogatory remarks about the sister of the deceased leading to a quarrel. In the course of the altercation the accused all of a sudden abused the deceased and stabbed him with a knife causing bleeding injuries due to which he collapsed. The accused then stabbed him again on the back inflicting grievous injuries. The deceased was shifted

to C. G. Hospital, Davanagere at 7.30 p.m. where he was declared dead by the doctors.

3. PW-1, the cousin of the deceased, met him while he was being taken to the hospital and was informed that the accused had stabbed him. Based on the information given by the deceased, PW-1 reported the matter to the police, leading to the registration of the FIR. Upon investigation, the prosecution filed a charge sheet against the accused for the offence punishable under Section 302 of IPC.

4. The trial court, upon considering the evidence of PWs-11, 12, and 13, who are eyewitnesses to the incident, held that the death of the deceased resulted from the fatal injuries inflicted by the accused with MO-2. The court further held that the prosecution had proved beyond all reasonable doubt that the accused caused the death of Mehaboob Rehman. Consequently, the accused was convicted for the offence punishable under Section 302 of IPC.

5. Sri Siddappa B M, learned counsel for the appellant, submits that the complaint Ex P1 was filed based on information allegedly provided by the deceased. The prosecution has not established whether the deceased was in a condition to communicate with PW-1. It is further contended that though the trial court considered PWs-11, 12, and 13 as eyewitnesses, they had not witnessed the incident, and their presence at the scene of the crime has not been proved.

6. Learned counsel further submits that the accused was residing in Bengaluru and was unaware of the visit of deceased to Davanagere. There was no motive for the accused to kill the deceased. The meeting between the accused and the deceased at Atheeq Tea Hotel was by chance, without any prior preparation or premeditation. The incident occurred in a sudden fight in the heat of passion upon a sudden quarrel, without the accused having taken undue advantage. Based on these submissions, learned counsel contends that even if this Court holds that the accused caused the death of the

deceased, the facts of the case would attract exceptions, warranting a modification of the conviction from Section 302 to Section 304 Part II of IPC.

7. Sri Vijaykumar Majage, learned SPP-II appearing for the respondent-State, submits that the prosecution has proved the guilt of the accused through the evidence of eyewitnesses. The testimonies of PWs-11, 12, and 13 corroborates with each other regarding their presence at the scene of the crime and witnessing the incident. The medical evidence, along with the FSL report Ex.P26, confirms the presence of bloodstains with 'O' group human blood. The post-mortem report Ex.P16, as certified by PW-18, establishes that the wounds on the body of deceased could have been caused by MO-2. The cause of death has been certified as resulting from the injuries sustained. Learned SPP-II prays for the dismissal of the appeal.

8. Having considered the submissions of learned counsel for the parties and perusal of the record, it is

evident that the PWs.1, 11, 12, 13, 18, 22 and 23 are prominent witnesses.

9. PW-1, the cousin of the deceased, registered Ex P1 based on the information provided by the deceased. He met the deceased while he was alive on the way to the hospital. In cross-examination, he stated that the deceased was not at the spot but that he met him en route to the hospital, where the deceased informed him that the accused had stabbed him. Despite extensive cross-examination, PW-1 remained consistent in his testimony.

10. PW-11 was examined by the prosecution as an eyewitness. His evidence establishes that he was present at the scene of the crime and witnessed the accused stabbing the deceased while they were having tea at Atheeq Tea Stall. He was familiar with the accused and the deceased, as well as their relationship. Despite extensive cross-examination, he remained consistent in his testimony.

11. PW-12 was examined by the prosecution as an eyewitness and was working as a Mouli in the Masjid. He was acquainted with the deceased. His evidence establishes that the deceased met him to resolve his sister's family dispute. He performed Namaaz with the deceased and PW-13 and was invited by them for tea. He joined them after ten minutes at Atheeq Canteen, where he saw the deceased, the accused, and PW-13 coming out of the hotel. He witnessed the accused stabbing the deceased and also stated about the deceased being shifted to the hospital. In cross-examination, no material evidence was elicited to discredit his testimony.

12. PW-13 was examined as an eyewitness. He stated that the deceased was his friend and that he had accompanied him to the house of PW-12 to discuss the matrimonial dispute concerning the sister of deceased. He also accompanied the deceased and PW-12 for Namaaz. When PW-13 and the deceased came out of the Masjid, the accused was present, and all three went to Atheeq Hotel for tea. While they were having tea, the accused

stabbed the deceased in the chest. As the deceased tried to escape, the accused inflicted further injuries. PW-13, who was with the deceased throughout the day, provided a detailed account of the events. Despite extensive cross-examination by the defence, he remained consistent in his testimony.

13. PW-18 is an expert witness who conducted the post-mortem examination and issued the report as per Ex P16. His evidence establishes that the wounds found on the body of the deceased could have been caused by MO-2. He has certified the cause of death as injuries sustained to the heart and back of the body.

14. PW-22 is the Investigating Officer who has deposed regarding the investigation conducted and the collection of evidence.

15. PW-23 is the FSL expert who has certified the presence of 'O' group human blood on all the articles sent for examination, including MO-2 knife and the clothes of the deceased.

16. PW-1, the author of Ex P1, deposed that he filed the complaint stating that the accused inflicted fatal injuries on the deceased based on information provided by the deceased himself. He stated that he was informed over the phone by an unknown person that his brother, the deceased, had been stabbed. He did not visit the crime scene. While he initially deposed that he met the deceased at the hospital, he later stated that he met him on the way to the hospital, where the deceased informed him that the accused had stabbed him. As per PW-18, the deceased sustained fatal injuries to the heart. There is no evidence to establish that the deceased was in a fit state of mind to make a reliable statement. Hence, the evidence of PW-1 does not support the prosecution case.

17. PWs-11, 12, and 13 have deposed as eyewitnesses. PW-11, who was acquainted with both the accused and the deceased, was near the crime scene to collect rent from his tenants, and his presence can be believed. His testimony remained consistent throughout. PW-12 stated that he met the deceased along with PW-13 and was

invited by them for tea, thereby establishing his presence at the crime scene. PW-13 deposed that he was with the deceased from 9:00 a.m. on the date of the incident and had accompanied him to Harihara. His continuous presence with the deceased corroborates the testimony of PW-12. PW-13 provided a full account of the incident and remained unshaken despite extensive cross-examination. PWs-11, 12, and 13 have identified MO-2 as the weapon used by the accused to inflict fatal injuries on the deceased. PW-18 opined that injuries 2 and 5 to 7 on the body of the deceased could have been caused by MO-2 and were ante-mortem. The cause of death was certified as haemorrhagic shock resulting from injuries sustained to the heart and back. The post-mortem report Ex P16 corroborates the testimonies of PWs-11, 12, and 13.

18. The appellant contends that the deceased was residing in Bengaluru and that his visit to Davanagere was unknown to the accused. Therefore, there was no preparation or motive to kill the deceased. It is further argued that the incident occurred against the backdrop of

a strained matrimonial relationship between the deceased and the accused's sister and that it was a result of provocation by the deceased, attracting the exceptions to Section 300 of IPC. However, these submissions are not supported by evidence. The prosecution has established that the accused caused the death of the deceased. If the exceptions to Section 300 of IPC are to be applied, the burden lies on the accused to establish and prove their applicability. The defence has not produced any evidence in support of this plea. In such circumstances, the case does not fall under the exceptions. Unless the applicability of exceptions is proved, question of considering a conviction under Section 304 of IPC does not arise.

19. The trial court, upon a detailed analysis of the evidence on record, has concluded that the accused stabbed the deceased with MO-2, resulting in fatal injuries that caused his death. The findings of the trial court are well-founded and supported by the evidence on record. This Court finds no infirmity in the order of the trial court. No grounds are made out to warrant interference. The

evidence does not support any view other than that taken by the trial court. Accordingly, the appeal is devoid of merit and stands dismissed.

20. The trial court, upon a thorough analysis of the evidence on record, has rightly concluded that the accused inflicted fatal injuries on the deceased with MO-2, resulting in his death. The prosecution has proved its case beyond reasonable doubt through consistent eyewitness testimonies, medical reports, and forensic evidence, all of which corroborate the chain of events. The findings of the trial court are well-founded and supported by cogent and reliable evidence.

21. Upon reappraisal, this Court finds no infirmity or perversity in the conclusions arrived at by the trial court. The testimonies of PWs-11, 12, and 13 remain consistent and unimpeached despite extensive cross-examination. The medical and forensic evidence further substantiates the prosecution's case. The appellant's contention regarding the absence of premeditation or motive is

unsubstantiated, and the defence has failed to establish the applicability of exceptions under Section 300 of IPC.

22. In the absence of any material warranting a different view, no grounds for interference are made out. Accordingly, this appeal, being devoid of merit, stands ***dismissed.***

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

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

VBS