



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH 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. 1965 OF 2019

BETWEEN:

1. RAGHU K.,
S/O KRISHNAPPA,
AGED ABOUT 42 YEARS,
R/AT GORAVIGERE VILLAGE,
BIDARAHALLI HOBLI,
BENGALURU EAST TALUK,
BENGALURU-560049.
(ACCUSED/APPELLANT IS IN JUDICIAL CUSTODY)
...APPELLANT

(BY SRI H. MUNISWAMY GOWDA, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
BY AVALAHALLI POLICE,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA
BANGALORE-560001.
...RESPONDENT

(BY SRI VIJAYKUMAR MAJAGE, SPP-II)

THIS CRL.A IS FILED UNDER SECTION 374(2) OF CR.PC
BY THE ADVOCATE FOR THE APPELLANT PRAYING TO SET
ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED
30.09.2019 AND SENTENCE DATED 09.10.2019 PASSED BY

Digitally signed
by VALLI
MARIMUTHU
Location: HIGH
COURT OF
KARNATAKA



THE IX ADDITIONAL DISTRICT AND SESSIONS JUDGE,
BENGALURU RURAL DISTRICT, BENGALURU IN
S.C.No.114/2018, CONVICTING THE APPELLANT/ACCUSED FOR
THE OFFENCE P/U/S 302 OF IPC.

THIS 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 K.V. ARAVIND)

The accused in S.C. No.114/2018, on the file of the IX Additional District and Sessions Judge, Bengaluru Rural District, has preferred this appeal, whereby he was convicted by an order dated 30.09.2019 for the offence punishable under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life, with a fine of Rs.20,000/-, and in default of payment of the fine, to undergo simple imprisonment for a period of three months.

2. The case of the prosecution is that the deceased, Munirathnamma, was the third wife of the accused, and the accused was the second husband of the deceased.



3. The accused, the deceased, PW2, and PW3 were residing together. Previously, the accused had stolen gold ornaments belonging to PW2 and had pledged them with a pawn broker. Upon noticing the theft of the gold ornaments, PW2 went to the police station to lodge a complaint. The accused, through a member of the Gram Panchayat, requested not to register the complaint, assuring that he would return the ornaments. However, instead of returning the gold ornaments, the accused refunded Rs. 25,000/- to PW2. PW2 and the deceased then insisted that the accused should no longer stay with them. Following this, the accused stayed with his first wife.

4. On 22.09.2017, when the deceased, PW2, and PW3 were at their house, the deceased went outside to attend a phone call. She was outside for about 15 minutes. During this time, PW2 and PW3 heard the deceased screaming. When they went outside, they saw the accused assaulting the deceased with a wooden club. As they approached, the



accused fled the scene in his TVS XL vehicle, discarding the wooden club in a nearby bush. PW2, the mother of the deceased, reported the incident to the police. An FIR was registered, and the accused was charged with the offence punishable under Section 302 of the IPC.

5. The trial court, based on the evidence of PW2 and PW3, who were the eyewitnesses to the incident, as well as the evidence of PW14, the doctor who conducted the post-mortem, and the evidence of PW20, the Investigating Officer, held that the prosecution had proved beyond all reasonable doubt that the accused caused the death of the deceased. Accordingly, the trial court convicted the accused for the offence punishable under Section 302 of the IPC.

6. Sri H. Muniswamy Gowda, learned counsel for the appellant, submits that PW2 and PW3 were considered as eyewitnesses to the incident. However, both witnesses did not see the accused causing injuries to the deceased. Therefore, the trial court erred in treating PW2 and PW3 as



eyewitnesses. It is further submitted that, according to the testimonies of PW2 and PW3, the accused threw the wooden club into the bushes before leaving the scene. Although the police visited the location, no recovery was made at that time. The recovery was made on 28.09.2017, which was six days after the incident. It is also contended that the prosecution failed to establish the presence of any bloodstains on M.O.1 (the club), which was alleged to have been used to inflict injuries on the deceased.

7. Sri Vijaykumar Majage, learned SPP-II appearing for the respondent/State, submits that PW2 and PW3 were present at the scene of the incident and witnessed the accused inflicting injuries on the deceased with M.O.1. It is further submitted that when PW2 and PW3 went outside the house, they witnessed the accused assaulting the deceased with M.O.1. It is further stated that the medical evidence establishes that the injuries were caused by M.O.1 and that the cause of death was due to the injuries



sustained. Based on these submissions, learned SPP-II prays that this Court dismiss the appeal.

8. We have considered the submissions on both sides and perused the record.

9. PW2, PW3, PW7, PW14 and PW20 are the prominent witnesses.

10. PW2 is the mother of the deceased. She stated that the deceased was the third wife of the accused, and the accused was the second husband of the deceased. She further stated that the accused had stolen the gold ornaments belonging to PW2, and when she went to the police station to register a complaint through another person, the accused influenced her not to proceed with the complaint, promising to return the gold ornaments. However, the accused refunded only Rs. 25,000/-. PW2 also testified that the accused was involved in bad habits and was not engaged in any productive work. The TVS XL vehicle bearing Registration No.KA-07-K-1311 was purchased by PW2 to assist the accused in carrying out a



vegetable business. PW.2 further testified that hearing the deceased screaming, she came out of the house and found that the accused was assaulting the deceased and on noticing her presence, he fled the scene. Due to the assault, deceased suffered multiple injuries and she was shifted to East Point Hospital. Thereafter, as per the advice of the doctors, the deceased was shifted to North Bengaluru Hospital at Kalyan Nagar in Bengaluru city. She was present when Ex.P.4 was drawn and she witnessed the recovery of wooden club-MO.1. The defense cross-examined PW2, but she remained consistent with her testimony.

11. PW3 is the daughter of the deceased. She stated that the accused was quarrelling with the deceased because PW2 had filed a complaint with the police. She further testified that, even prior to the alleged incident, the accused had assaulted the deceased due to the attempt by P.W.2 to file a police complaint against him. PW.3 along with PW.2 came out of the house immediately after



hearing the deceased screaming and witnessed the presence of the accused along with MO.1 while the deceased was lying with fatal injuries and bleedings. She further testified that the accused on noticing PWs.2 and 3 fled the scene in his TVS XL vehicle after discarding MO.1. Thereafter, she has further deposed that the deceased was taken to the hospital, later shifted to another hospital and the deceased eventually succumbed to the injuries. PW.3 was extensively cross-examined by the defence and her testimony remained consistent. PW3 also identified the TVS XL vehicle used by the accused at the time of the incident.

12. PW7 is the owner of the pawn shop who accepted the gold ornaments on pledge. He provided details of the ornaments pledged with him and admitted the authenticity of Ex. P12. The testimony of PW.7 proves the motive for committing the crime by the accused. The testimony of PW.7 corroborates the evidence of PWs.2 and 3.



13. PW14 is the doctor who conducted the post-mortem of the deceased. He identified four (4) external injuries and certified that the injuries were caused by M.O.1. PW14 further opined that the cause of death was due to the injuries sustained.

14. PW20 is the Investigating Officer in this case. He provided a detailed account of the course of the investigation, including the steps taken to gather evidence. PW20 explained the process of collecting relevant materials, conducting inquiries, and recording statements from witnesses. He also described the procedures followed to recover and seize exhibits.

15. The prosecution asserts that the accused was an alcoholic and did not engage in any productive work. The testimonies of PW2 and PW3 establish that the accused had stolen the gold ornaments. PW2 had proceeded to the police station to lodge a complaint in connection with the theft.



16. The evidence of PW7 establishes that the gold ornaments stolen from PW2 were pledged with him. The prosecution alleges that the motive for the incident was PW2's attempt to lodge a police complaint regarding the theft of the gold ornaments.

17. PW2 and PW3 have provided complete account of the incident and have been consistent in their testimonies. The evidence of PW2 and PW3 establishes that the deceased was with them prior to the alleged incident. When she went outside to attend a phone call, the accused inflicted injuries upon her with a wooden club (M.O.1). PW2 and PW3 immediately went outside upon hearing the deceased screaming. The evidence further confirms that there was sufficient light to identify the accused. There can be no doubt regarding PW2 and PW3 identifying the accused, as he had previously resided with them and was the husband of the deceased. The testimonies of PW2 and PW3 also establish that the accused was sent out of the house after the gold ornaments were stolen by the accused, and that



thereafter, the accused resided with his first wife. The presence of the accused at the crime scene remains unexplained. Since he was residing with his first wife, his presence at the scene of the incident indicates an intention to assault the deceased. This establishes the intention of the accused to cause harm to the deceased and inflict injuries.

18. The testimony of PW.2 can be believed as she was present at the crime place immediately after hearing the deceased screaming. When deceased was found with fatal injuries and bleeding, she witnessed the presence of the accused with MO.1. The time span taken by PW.2 to reach the crime scene would prove that except the accused, the presence of any other person within that short span is not possible. The contention of the appellant that PW.2 has not seen the accused inflicting injuries with MO.1 hardly matters. When the deceased was found with fatal injuries and the accused presence was proved with MO.1, it was



for the accused to explain as to how the deceased suffered injuries.

19. The prosecution has established that the TVS XL vehicle was owned by the accused and was being used by him at the time of the alleged incident. Although PW2 testified that she had been using the TVS XL vehicle after the accused left the house, she later stated that just a few days before the incident, the accused had taken the vehicle. This further supports the contention that the accused was present at the scene of the incident with a motive to assault the deceased.

20. The contention of the defence that MO1 which was allegedly used in the incident on 22.09.2017, was recovered only on 28.09.2017, holds little relevance. After the incident, the accused was absconding and was arrested only on 28.09.2017. On the same day, the prosecution made the recovery of M.O.1.

21. The medical evidence of PW14, the doctor who conducted the post-mortem as per Ex.P33, establishes



that the cause of death was the injuries sustained by the deceased. Ex.P33 further indicates that the injuries found on the body of deceased were likely caused by M.O.1.

22. The evidence of PW2 and PW3 is further corroborated by the evidence of PW7, PW14, and PW20. The trial court has rightly concluded that the death of the deceased was caused by the injuries inflicted by the accused with M.O.1. The trial court correctly found that the prosecution had proved its case beyond reasonable doubt, establishing that the accused caused the death of the deceased. No infirmities have been found in the findings recorded by the trial court. Accordingly, the following,

ORDER

The appeal is dismissed.

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

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