



NC: 2026:KHC-D:1335-DB
CRL.A No. 100020 of 2021

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 30TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. JUSTICE R.DEVDAS

AND

THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

CRIMINAL APPEAL NO. 100020 OF 2021
(374(CR.PC)/415(BNSS))

BETWEEN:

YAMANAPPA S/O. SATYAPPA MANG,
AGE: 52 YEARS, OCC: AGRICULTURE,
R/O. ASANGI, TQ. RABAKAVI-BANAHATTI,
DIST. BAGALKOT-587311.

...APPELLANT

(BY SRI. S. C. BHUTI, ADVOCATE)

AND:

STATE OF KARNATAKA, BY C.P.I., BANAHATTI,
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, DHARWAD-580007.

...RESPONDENT

(BY SRI. M. B. GUNDAWADE, ADDL. S.P.P. FOR RESPONDENT)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 374(2) OF CR.P.C., 1973, PRAYING TO CALL FOR THE RECORDS IN SESSIONS CASE NO.27/2012 ON THE FILE OF THE COURT OF I ADDL. DISTRICT AND SESSIONS JUDGE, BAGALKOT TO SIT AT: JAMKHANDI, AT: JAMKHANDI DATED 11.12.2020 AND SET ASIDE THE JUDGMENT AND ORDER PASSED BY THE COURT OF I ADDL. DISTRICT AND SESSIONS JUDGE, BAGALKOT TO SIT AT: JAMKHANDI, AT: JAMKHANDI IN SESSIONS CASE NO.27/2012 AND ORDER OF SENTENCE DATED 11.12.2020 FOR THE OFFENCE PUNISHABLE UNDER SECTIONS 376 AND 302 OF INDIAN PENAL CODE AND ETC.

THIS CRIMINAL APPEAL, HAVING BEEN HEARD AND RESERVED ON 05.11.2025, COMING ON FOR 'PRONOUNCEMENT OF JUDGMENT', THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:



CORAM: THE HON'BLE MR. JUSTICE R.DEVDAS
AND
THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE B. MURALIDHARA PAI)

The accused in SC No.27/2012 on the file of learned I Additional District & Sessions Judge, Bagalkot, sitting at Jamkhandi called in question the judgment of conviction and sentence dated 11.12.2020 passed therein, holding him guilty of the offences under Sections 376 and 302 of IPC and awarding him imprisonment for life and fine of Rs.25,000/- each for these offences.

2. Brief facts leading to this appeal are as under:

i) On 27.9.2011 Sri Kumar Shantavva Mang, the father of the deceased lodged a complaint with Banahatti Police Station stating that on 20.9.2011 he had dropped his daughter, i.e, the deceased, at the house of his sister Smt. Ningavva in Lambani Tanda at Lakshmigudda, Banahatti as there was Sri Kadasiddeshwara Chariot Fair and on 26.9.2011 at about 6.30 p.m., he received a phone call from Smt.



Ningavva inquiring whether his daughter has reached home, by informing that as his daughter expressed desire of returning to the home, she sent his daughter back at 5.30 p.m., and that Smt. Shantavva has accompanied her to drop her at the bus-stand. Thereafter, he waited for arrival of his daughter for an hour and then started searching for her along with his younger brothers and that they could not find her during entire night. It is further stated that on 27.9.2011 in the early morning he and his brothers left in search of his daughter in different directions and at about 9.00 a.m., he received a phone call from his brother namely Sri Sanju, informing that the dead body of his daughter was found near Dempo Diary. Accordingly, he went to the said place at around 10.00 a.m., identified the dead body as that of his daughter and based on his observation, lodged the complaint alleging that someone has murdered his daughter by strangulating her with veil/dupatta (odni) after committing rape on her.

ii) Based on the said complaint, the jurisdictional police registered a case in Crime No.129/2011 and took up



investigation in the case. The Circle Inspector of Police, Banahatti conducted the investigation and upon its completion, he laid a charge sheet against the accused herein for the offenses under Sections 376 and 302 of IPC.

iii) Pursuant to the same, the jurisdictional magistrate took cognizance of the alleged offenses, registered a case in CC No.510/2011 and after complying with Section 207 of Cr.P.C., committed the case to Sessions Court for trial.

iv) On receipt of committal record, the case in SC No.27/2012 was registered, the presence of the accused was secured, who was in custody since 5.10.2011 and charge was framed on 28.1.2015.

v) The accused pleaded not guilty and claimed to be tried. As such the prosecution was called upon to adduce their evidence. During the trial, the prosecution examined 27 witnesses and got marked 43 documents and 15 material objects. In his statement under Section 313 of Cr.P.C., the accused denied all the incriminating evidence appearing against him as false. Further, he adduced his defense



evidence by stepping into witness box as DW-1.

vi) Upon conclusion of the trial and on hearing the submissions of both sides, initially the trial court had pronounced a judgment of conviction and sentence in the case on 9.12.2015, convicting and sentencing the accused for the alleged offences.

vii) The accused challenged the said judgment in Criminal Appeal No.100030/2016 mainly contending that there was no sufficient opportunities for him to cross examine the material witnesses i.e, PW-1 to PW-24. The said appeal came to be allowed on 24.08.2016 and the case was remanded to the trial court for fresh disposal, after giving an opportunity to the accused to cross examine those witnesses and also to lead any evidence on his side. Thereafter, the accused subjected PW-1 to PW-24 for cross examination and got marked 3 documents i.e, portions of the statements of PW-7, PW-12 and PW-13, by confronting the same to concerned witnesses. During the cross examination of PW-22 one more document was marked on the side of the



prosecution as Ex.P44.

viii) Thereafter, the trial court passed once again passed a judgment of conviction and sentence against the accused for the alleged offences on 12.08.2017. The accused challenged the said judgment in Criminal Appeal No.100009/2018 mainly on the ground that in spite of filing an application under Section 311 of Cr.P.C. to recall PW-27, the trial court did not give him an opportunity to cross examine the Investigating Officer and to confront the contradictions and omissions brought out during the course of cross examination of PW-1 to PW-24. The said appeal was allowed on 22.07.2020 and the matter was again remitted to the trial court for fresh disposal after giving an opportunity for the accused to cross examine PW-27.

ix) Accordingly, after the remand, the accused was given an opportunity to further cross examine PW-27 and then the impugned judgment of conviction and sentence came to be passed.

3. Sri S.C.Bhuti, learned Counsel for Accused has



assailed the impugned judgment on several grounds. He submitted that the prosecution has failed to prove the last seen theory and motive for the alleged crime. He vehemently submitted that the materials on record are not sufficient to conclude death of the deceased being on account of strangulation and that the post-mortem report marked at Ex.P20 being a partial report, it is not reliable. He submitted that the complaint is silent about the involvement of the accused in the crime and even PW-1 did not say anything about the accused to the police till 5.10.2011. He further submitted that the accused did not abscond from the place and that only after Ex.P39 i.e, alleged voluntary statement of the accused, all the prosecution papers were re-built to fix him in the case. He strenuously submitted that during the cross examination PW-5 has clearly admitted having given statement before the Investigating Officer after having watched a report about the incident in T.V. Show and his statement in connection with last seen theory is not reliable. He has also canvassed some other discrepancies and lapses committed during the investigation and prayed to acquit the



accused from alleged charges by allowing the appeal.

4. Per contra, Sri M.B.Gundwade, learned Additional Special Public Prosecutor for Respondent sought to sustain the impugned judgment, contending that the prosecution had established its case beyond all reasonable doubt through cogent oral and documentary evidence. He submitted that the 'last seen theory' stood conclusively proven by the testimonies of PW-5, PW-10, PW-11, and PW-14. It was further urged that the evidence of PW-21 to PW-23, read in conjunction with the documents marked as Ex.P20, P27, P28, P29, and P44, fully corroborates the prosecution version alleging the commission of rape and murder by the accused. On these premises, he argued that the findings recorded by the trial court are firmly grounded in substantial evidence on record and that the accused has failed to demonstrate any tenable reason warranting interference with the judgment under challenge.

5. The case of the prosecution as outlined in the charge sheet is that the accused, fearing exposure of his illicit relationship with the deceased's mother, which she knew



about, and seeking vengeance for his younger brother Shasappa's death, exploited his familiarity with the victim/deceased and on 26.9.2011 at around 6:45 p.m., he collected her near Vaibhav Theatre in Banahatti, promising to take her to the native - Asangi Village. Instead, he took her on his motorcycle bearing No. KA-48- K-8988 to a forested area en route, where he raped her between 7:00 p.m. and 8:00 p.m., and then murdered her by strangling her neck with her veil (odni).

6. As detailed in the charge sheet, the prosecution attributes two motives to the accused for the alleged offense: first, his fear that the deceased might expose his illicit relationship with her mother; and second, vengeance for his younger brother Shasappa's death. While investigation records suggest that certain prosecution witnesses mentioned prior enmity between the accused, the complainant, and others linked to Shasappa's demise, no such witness referenced the purported affair before the Investigating Officer. This element appears to stem primarily from the alleged voluntary



statement of the accused rather than independent evidence gathered. Moreover, during trial, no one including the complainant/ PW-1, testified to this relationship. Consequently, the prosecution has failed to establish the alleged motive.

7. The prosecution firmly maintains that on 26.09.2011 at approximately 5:30 p.m., the deceased left Smt. Ningavva's (PW-6) residence in Lakshmigudda to return home, but did not arrive at her parental home on that day. The next morning i.e, on 27.09.2011 around 9:00 a.m., her body was found in a forested area near Dempo Dairy.

8. During their evidence, PW-1 and other prosecution witnesses, namely PWs 2 to 4 and 6 to 9, deposed that upon reaching the spot they observed multiple injuries on the body of the deceased and formed an impression that she had been subjected to rape and subsequently murdered. The inquest report marked at Ex. P3 and the post-mortem report marked at Ex. P20 corroborate their account. In the post-mortem report, the medical officer opined that the cause of



death was due to strangulation, while reserving his opinion on the question of rape pending receipt of the RFSL report.

9. The materials on record clearly reveal that the accused has not disputed any of these aspects. Moreover, during his deposition as DW-1, the accused stated that upon learning of the deceased's death, he too visited the spot and saw the body. In his evidence, he merely asserted that he did not notice any injuries on the deceased's body, without specifically denying their existence. Further, though the accused extensively cross-examined PW-21 and PW-22, the doctors who conducted the post-mortem examination, he did not challenge their opinion that the cause of death was strangulation. Thus, the record contains adequate material to conclusively establish that the deceased died a homicidal death.

10. The crucial question that now arises for consideration is whether the prosecution has adduced sufficient evidence to establish the accused's involvement in the alleged crime. It is an admitted fact that there is no eye



witness or direct evidence to corroborate the case of the prosecution. The prosecution, therefore, rests its case on circumstantial evidence, principally the "last seen theory" and other attendant circumstances, to support its contention.

11. In ***Satpal v. State of Haryana [(2018) 6 SCC 610]*** Hon'ble Supreme Court of India has reiterated the legal position governing the field in following words:

"...Criminal jurisprudence and the plethora of judicial precedents leave little room for reconsideration of the basic principles for invocation of the last seen theory as a facet of circumstantial evidence. Succinctly stated, it may be a weak kind of evidence by itself to found conviction upon the same singularly. But when it is coupled with other circumstances such as the time when the deceased was last seen with the accused, and the recovery of the corpse being in very close proximity of time, the accused owes an explanation under Section 106 of the Evidence Act with regard to the circumstances under which death may have taken place. If the accused offers no explanation, or furnishes a wrong explanation, absconds, motive is established, and there is corroborative evidence available inter alia in



the form of recovery or otherwise forming a chain of circumstances leading to the only inference for guilt of the accused, incompatible with any possible hypothesis of innocence, conviction can be based on the same. If there be any doubt or break in the link of chain of circumstances, the benefit of doubt must go to the accused. Each case will therefore have to be examined on its own facts for invocation of the doctrine...".

12. In the case on hand, PW-5 Shri Prakash, in his testimony, categorically stated that on the evening preceding the discovery of the deceased's body near Dempo Dairy, between 6:30 p.m. and 6:45 p.m., while he was standing near a cloth store close to Vaibhav Theatre in Banahatti, he saw the accused taking the deceased on his two-wheeler towards Shanivarapete. Similarly, PW-10 Shri Erayya, PW-11 Shri Basappa, and PW-14 Shri Tukaram also deposed that they had witnessed the accused taking the deceased on a motorcycle around the same time. A perusal of their cross-examinations reveals that the accused made no effort to challenge or discredit these statements.



13. Learned Additional Special State Prosecutor has vehemently contended that the testimonies of PW-5, PW-10, PW-11, and PW-14 clearly establish that the accused was last seen in the company of the deceased while taking her on a motorcycle from Banahatti towards Shanivarapete at the relevant time. Hence, it is submitted that the prosecution has successfully proved the 'last seen' circumstance through cogent and convincing evidence.

14. Per contra, learned Counsel for the Accused has vigorously argued that during cross-examination, PW-5 candidly admitted that it was only after watching a television program about the incident on the previous day that he came to know the accused had allegedly committed the offence by carrying a girl on a motorcycle, and thereafter he gave his statement to the Investigating Officer. It was further contended that the other witnesses, namely PW-10, PW-11, and PW-14, recorded their statements nearly eight days after the occurrence, and hence, their testimonies cannot be regarded as natural or reliable.



15. As already noted, the dead body of the deceased was found on 27.09.2011 at about 9:00 a.m. near Dempo Dairy, following which a complaint was lodged around 12:00 noon. Thereafter, the Investigating Officer visited the spot and conducted the inquest mahazar between 1:30 p.m. and 3:30 p.m. During his evidence, PW-5 categorically stated that upon learning that the dead body of the deceased had been found near Dempo Dairy, he proceeded to the spot and, at the time of preparation of the mahazar there, informed those present that on the previous evening, while he was near Vaibhav Theatre, he had seen the accused taking the deceased away on a motorcycle. The inquest report marked at Ex. P3 contains a specific recital to this effect and thus serves to corroborate the testimony of PW-5.

16. The argument advanced on behalf of the accused, assailing the reliability of the evidence of PW5 on the ground that PW5 had, prior to making his statement to the police, watched a television programme concerning the incident in which there was a reference to the accused as the offender,



does not commend acceptance. The defense has not set up a case that any such telecast, pertaining to the crime in question, was aired either before registration of the FIR or prior to the commencement of the investigation. In the absence of any foundational material in that regard, the mere fact that PW5 is stated to have seen a television show cannot, by itself, render his testimony unsafe.

17. Nevertheless, if the suggestion put to PW5 on behalf of the accused is properly construed, it in fact proceeds on the premise that there was a telecast showing the accused taking a girl on a motorcycle on the relevant day. Such a suggestion amounts to a clear implied admission on the part of the defense that it was the accused who had taken the deceased on a motorcycle. Once that suggestion is accepted, the necessary inference is that there existed a video recording depicting the accused taking away the deceased on a motorcycle and that the accused does not dispute the correctness of such depiction in the telecast.

18. Further, even if one were to proceed on the basis of



the suggestion made on behalf of the accused that a report concerning the incident was telecast on the very next day and that PW5 visited the police station only on the following day to make his statement, the contention does not withstand scrutiny. If that version is accepted, PW5 would have given his statement before the police two days after the incident. However, the contemporaneous material on record, particularly the inquest report marked as Ex. P3, establishes that the inquest was conducted at the spot on 27.09.2011 between 1:30 p.m. and 3:30 p.m., during the course of which PW5 disclosed the aforesaid facts to the police and to the other persons present. The documentary evidence thus clearly demonstrates that PW5 had furnished the relevant information at the earliest available opportunity, which belies the defense theory of a delayed and prompted statement. In view of this, the Court is unable to accept the contention of the accused and finds no merit in the challenge to the credibility of PW5's statement.

19. Moreover, the accused has advanced no concrete



defense to impugn the credibility of the testimonies from PW-10, PW-11, and PW-14, beyond a bare assertion that they are fabricated witnesses. It is conceded that PW-11 and PW-14 hail from outside Asangi Village. The defense does not allege any enmity or animosity toward the accused on their part. Consequently, this Court discerns no basis to question the veracity of their evidence, especially given the accused's failure to rebut their accounts of observing the deceased in his company.

20. The undisputed facts reveal that the deceased was last observed in the accused's company on 26.09.2011 around 6:30 PM in Banahatti, after which the corpse of the deceased was discovered near Dempo Dairy on 27.09.2011 at approximately 9:00 AM. This establishes a minimal temporal interval between the last sighting with the accused and the recovery of the corpse. It is well-settled that the "last seen" doctrine gains potency in cases of such brief lapses, particularly when embedded within an unbroken chain of circumstances. The accused offers no explanation for these



events beyond a bald plea of innocence.

21. It is a well-established principle that in cases founded upon circumstantial evidence, the prosecution bears the burden of proving each individual circumstance and the interlinking nexus among them beyond reasonable doubt. The cumulative effect of these circumstances must constitute a complete and consistent chain, leaving no reasonable ground to conclude otherwise than that within all human probability; the offence was perpetrated by the accused. In this context, it becomes necessary for this Court to carefully examine the remaining links in the chain of circumstances that collectively point toward the culpability of the accused.

22. It is the specific case of the prosecution that following registration of the crime, the jurisdictional police apprehended the accused on 04.10.2011 at about 5:45 PM near Chimada Main Canal while he was riding a motorcycle bearing registration No.KA-48-K-8988. It is further alleged that pursuant to the accused's disclosure, the investigating officer seized a blood-stained shirt from the house of PW-12,



which he is stated to have worn at the time of commission of the offence.

23. It is contended that during interrogation, the accused disclosed that he had kept his shirt at the residence of PW-12, Sri Sangappa, and led the investigating officer to its recovery. In his testimony, PW-12 stated that on the relevant day, the accused visited his house and informed him about the murder of the deceased, requesting that he accompany him to the scene. PW-12 further deposed that at that time, the accused had left behind a handbag in his house, and when the police arrived along with the accused to make inquiries, he produced the said handbag. The handbag contained a blood-stained blue shirt marked as MO-15. The RFSL report, marked as Exhibit P-26, confirms the presence of bloodstains on this shirt. The record indicates that PW-12 was subjected to an elaborate cross-examination by the defense on various aspects. However, nothing has been elicited in his testimony to discredit his assertion that the accused had left the handbag containing the shirt at his



residence on the day the deceased's body was discovered and that the said article was later produced before the investigating officer from his house at the instance of the accused.

24. Admittedly, the investigating agency did not take any steps to collect blood samples of either the deceased or the accused for the purpose of determining their blood group during the course of investigation. Consequently, though the RFSL report marked as Ex. P-26 records the presence of bloodstains on the shirt in question, there is no material on record to establish to whom the said blood belongs. Nonetheless, it is significant to note that the accused has offered no explanation regarding the presence of bloodstains on his shirt, recovered through PW-12 or the circumstances under which his garment came to be so stained.

25. Further, the prosecution asserts that immediately after the arrest, the accused was subjected to medical examination, during which the examining doctor noted a scratch mark on the left cheek just below the nose, another



on the right hand between the index and middle fingers, a similar scratch on the left hand between those fingers, and an abrasion on the right elbow. The report of this examination has been produced and marked as Ex. P22. It is true that the investigating agency did not collect nail scrapings either from the accused or the deceased for forensic comparison. However, this Court finds no reason to doubt the veracity of the medical findings contained in Ex. P22, which clearly record the presence of multiple injuries on the person of the accused. Notably, the accused has offered no explanation as to the cause or circumstances of these injuries.

26. It is the definite case of the prosecution that the accused had used a motorcycle bearing registration No. KA-48-K-8988 to take the deceased along with him and that the said vehicle was employed in the commission of the offence. According to the prosecution, the motorcycle belonged to the accused. However, no documentary evidence was adduced before the trial court to establish the accused's ownership of the said vehicle. In the considered view of this Court, such an



omission on the part of the investigating agency does not materially affect the prosecution case. As already noted, PW-18, Sri Umar Farooq, has categorically deposed that on the relevant date, they found the accused near Chimada Main Canal while he was riding the motorcycle bearing No. KA-48-K-8988. The said vehicle was subsequently produced before the investigating officer, who seized it under a mahazar drawn in the presence of panch witnesses at the police station. Moreover, other witnesses, including PW-5, PW-10 to PW-12, PW-14, and PW-15, have consistently stated that the accused was in possession of a motorcycle and habitually used it for his personal purposes. In the present case, the material question is whether the accused used the motorcycle bearing No. KA-48-K-8988 to take the deceased from Banahatti towards Asangi Village. The prosecution witnesses have made clear and consistent statements on this aspect, and this Court finds no reason to doubt the veracity of their testimony. For these reasons, this Court is of the view that the trial court rightly held the accused guilty of the murder of the deceased based on the "last seen" theory supported by



other corroborative circumstantial evidence.

27. Learned Counsel for the Accused has strenuously contended that the prosecution has failed to establish the commission of rape upon the deceased. In support of this submission, reliance has been placed on the RFSL report marked as Ex. P26, which records that seminal stains were not detected on any of the garments said to belong to the deceased or the accused, nor in the anal or vaginal swabs collected during investigation.

28. It is true that as per the RFSL report no seminal stains were detected on any of the aforesaid articles seized and preserved during the course of investigation. However, in the considered view of this Court, the said circumstance alone cannot be treated as conclusive to determine whether rape was committed. At this juncture, it is appropriate to refer to the definition of 'rape' under Section 375 of the Indian Penal Code. As per clause (a) of the said provision, penetration of the penis into the vagina to any extent is sufficient to constitute the offence of rape.



29. It is true that as per the RFSL report, no seminal stains were detected on any of the articles seized or preserved during the investigation of the present case. However, in the considered view of this Court, the said circumstance by itself cannot be treated as a decisive or conclusive factor to determine whether the offence of rape was committed or not. The legal position is well settled that the absence of semen or spermatozoa does not, in law, negate the possibility of rape if there is otherwise cogent and reliable evidence indicating penetration.

30. At this juncture, it becomes apposite to advert to the definition of the offence of rape as contained in Section 375 of the Indian Penal Code. Under clause (a) of Section 375 IPC, a man is said to commit rape if he "penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person." Thus, even the slightest penetration to any extent is sufficient to constitute the offence, and proof of ejaculation or presence



of seminal stains is not a statutory requirement for attracting Section 375 IPC.

31. In the present case, PW22 - Dr. Sunitha Naik, one of the doctors who conducted the post-mortem examination on the deceased, has unequivocally deposed that the post-mortem examination revealed bite marks on both cheeks of the deceased along with nail scratches in the inguinal region, thigh proximate to the genitals, left shoulder and neck, and that all those injuries were consistent with the perpetration of rape. She has further stated that the hymen of the deceased was found ruptured, accompanied by haemorrhage resulting from such rupture. This evidence tendered by PW22 stands in complete harmony with the ocular accounts furnished by the prosecution witnesses who viewed the cadaver at the crime scene. These witnesses have testified before the Court regarding the observed haemorrhage from the victim's private part, alongside additional external injuries and signs indicative of sexual assault upon the deceased.

32. In addition to the above, the prosecution has



tendered two pivotal documents, marked as Ex. P32 and Ex. P33, emanating from the clinical examination of the accused at PMNM Dental College, Bagalkot. These reports assert that upon subjecting the accused to meticulous oral examination, radiographic imaging (X-ray), and bite mark scrutiny, the resultant analysis correlated the accused's dental patterns with the bite wound on the deceased's left cheek. The prosecution has examined the doctor who authored these reports as PW-23. Thus, the cumulative effect of the aforementioned materials on record furnishes ample basis to hold that the accused committed rape upon the deceased, as alleged by the prosecution.

33. Learned Counsel for the Accused has made a faint attempt to discredit the prosecution's version by pointing to minor inconsistencies in the evidence and certain procedural lapses during investigation. One such instance relates to a reference made by PW-8 to one "Prakash Mang" as the person who allegedly took the victim girl on the motorcycle. A careful reading of the deposition of PW-8 clearly establishes



that he is a hearsay witness, and the said statement was not based on his personal knowledge. Moreover, the portion of his deposition found at page 2 indicates that such a mention is nothing but an inadvertent and typographical error rather than a substantive statement made by the witness.

34. The defense has also questioned the reliability of the post-mortem report marked as Ex.P20, contending that being a partial report and that it cannot be relied upon. This contention is devoid of merit. The record reveals that Ex.P20 was prepared based on the actual findings observed during the post-mortem examination. It remained partial only to the limited extent of the alleged sexual assault aspect, which was kept pending till receipt of the RFSL report. The medical experts had rightly awaited the RFSL findings before forming a conclusive opinion regarding the commission of rape on the deceased.

35. Another contention raised by the accused is that he did not abscond after the alleged incident and was present even during the spot mahazar. As discussed earlier, PW-12



Sri Sangappa has testified that he visited the scene of occurrence along with the accused. At the same time, he has categorically stated that the accused remained at the spot only for about 10 to 15 minutes after their arrival and thereafter left the place. This part of his testimony remained unshaken in cross-examination as no effort was made by the defense to challenge or contradict it. Further, though while deposing as DW-1, the accused claimed that he had visited the police station several times with the complainant and PW-7 and was present during the spot mahazar, no suggestion to that effect was put to PW-1, PW-7, or any other prosecution witness. Hence, the plea of the accused regarding his continued presence in the locality after his name surfaced as the person last seen with the deceased remains unsupported by any credible evidence. Consequently, this Court finds no substance in the said contention.

36. Learned Counsel for the Accused has even pointed out similar other instances such as the four-hour delay in forwarding the FIR to the jurisdictional magistrate, the



inordinate two-month lag in submitting the post-mortem report, the omission to collect blood samples and nail scrapings from both the deceased and the accused, and the failure to secure documents substantiating ownership of the motorcycle in question, etc. No doubt, such minor discrepancies and the lapses do exist in the case. However, they pale into insignificance against the backdrop of the unimpeachable and incontrovertible evidence, compounded by the accused's inability to furnish any plausible explanation for proximity to the deceased shortly before her demise, the blood stains on his shirt, the injuries on his person, etc. This Court is therefore constrained to hold that these discrepancies or shortcomings are too insignificant to displace the substantial proof adduced by the prosecution.

37. It is also pertinent to observe that the accused hails from the same community as the complainant and the deceased, and all are residents of the same locality. Admittedly, no enmity or ill-will subsisted between the accused and any prosecution witness, furnishing no motive



for any of them to depose falsely before the Court. Consequently, the hypothesis of false implication of the accused stands wholly ruled out. The accused, in his testimony, has leveled no allegation against any of the prosecution witness regarding his fabricated involvement, save a bald assertion that the police implicated him merely to parade someone as the perpetrator. In light of the incriminating materials available on record, this Court finds the above contention of the accused is utterly bereft of merit.

38. The robust evidence on record establishes that the accused was last seen in the company of the deceased on 26.09.2011 around 6:30 PM, reinforced suggestive indication of rape upon her, the unexplained injuries on his person, and the brief interval between their last sighting together and the discovery of her corpse. If these factors are blend together, it would forge an unbroken chain of circumstances unerringly pointing to the accused's culpability. The materials on record sufficiently substantiate rape or an attempt thereof, warranting presumption of the underlying impetus for the



offence. Accordingly, this Court holds that the accused has failed to demonstrate any tenable basis for unsettling the impugned judgment, as urged in the appeal.

39. The present case concerns the rape and murder of a 15-year-old girl, who unsuspectingly accompanied the accused on the fateful day, believing his assurance of taking her to her native place. The Trial Court, while imposing sentence under the impugned judgment, awarded life imprisonment to the accused for the offenses punishable under Sections 376 and 302 of the Indian Penal Code and further directed him to pay a fine of Rs.25,000/- for each offence. Upon a careful consideration of the evidence and the reasoning assigned by the Trial Court, we find no justifiable ground to interfere with the sentence so imposed.

40. Under the impugned judgment, the Trial Court has further directed that out of the total fine amount of Rs.50,000/- a sum of Rs.40,000/- shall be paid to the complainant by way of compensation. However, it is noticed that the Trial Court did not invoke the provisions of Section



357A of the Code of Criminal Procedure, notwithstanding the fact that the judgment was rendered on 11.12.2020. It is true that the offence in question was committed on 26.09.2011 and Section 357A Cr.P.C. came be inserted pursuant to the Code of Criminal Procedure (Amendment) Act, 2008, which came into force on 31.12.2009. This omission, however, does not preclude this Court from making an appropriate recommendation. Considering the overall circumstances of the case and the plight of the victim's family, we deem it just and proper to recommend to the District Legal Services Authority, Bagalkot, to assess and determine suitable compensation payable to the parents of the deceased/victim and to ensure prompt disbursement of the same in accordance with the Victim Compensation Scheme framed under Section 357A Cr.P.C.

41. In the result, this court proceeds to pass the following:

ORDER

- i) Appeal is dismissed.



- ii) The judgment of conviction and sentence dated 11.12.2020 in S.C. No.27/2012 by the learned I Additional District & Sessions Judge, Bagalkot, sitting at Jamakhandi is confirmed.
- iii) The bail bond executed by the Accused/Appellant, if any stands cancelled.
- iv) The Accused/Appellant is directed to surrender before the trial court within 15 days from the date of this judgment in the event of he being out of prison pursuant to Order dated 23.02.2021 passed in this appeal and in default, the trial court shall proceed to secure the presence of the accused and commit him to prison, by proceeding in accordance with law.
- v) The Accused/Appellant is entitled for statutory benefit if any available under Section 428 of Cr.P.C.
- vi) The registry is directed to forward a copy of the judgment to the District Legal Services Authority,



Bagalkot for complying with the recommendation made under Section 357A of Cr.P.C.

- vii) The registry is directed to supply a free copy of the judgment to the Accused through his counsel on record, forthwith.
- viii) Send back entire record to the trial court forthwith for due compliance with the direction in Para (iv) of the Order.

**Sd/-
(R.DEVDAS)
JUDGE**

**Sd/-
(B. MURALIDHARA PAI)
JUDGE**

VB
CT:AN
LIST NO.: 19 SL NO.: 3