



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 2ND DAY OF FEBRUARY 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

CRIMINAL APPEAL NO. 100474 OF 2022 (374(CR.PC)/415(BNSS))

BETWEEN:

SIDDANA GOUDA S/O. LATE KENCHANA GOUDA,
AGE: 47 YEARS, OCC: FARMER,
R/O. KOGALI VILLAGE, HB HALLI TQ.,
BALLARI DISTRICT-583212.

...APPELLANT

(BY SRI. B. ANWAR BASHA, ADVOCATE)

AND:

THE STATE OF KARNATAKA,
HADAGALI CIRCLE, DIST: VIJAYANAGAR,
(THROUGH ITAGI POLICE STATION),
REPRESENTED BY STATE PUBLIC PROSECUTOR,
HIGH COURT OF KARNATAKA, DHARWAD-580001.

...RESPONDENT

(BY SRI. M.B. GUNDAWADE, ADDITIONAL SPP)

THIS CRIMINAL APPEAL IS FILED U/SEC. 374(2) OF CR.P.C. SEEKING TO SET ASIDE THE IMPUGNED JUDGMENT AND ORDER OF CONVICTION DATED 31.03.2022 AND SENTENCE DATED 05.04.2022 PASSED IN S.C. NO.5011/2017 PASSED BY THE IIIRD ADDITIONAL DISTRICT AND SESSIONS JUDGE, BALLARI SITTING AT HOSAPETE AND TO ACQUIT THE APPELLANT/ACCUSED FOR THE OFFENCE PUNISHABLE UNDER SECTION 302 OF IPC, IN THE INTEREST OF JUSTICE.

BHARATHI
H M



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BHARATHI H M
Location: HIGHCOURT
OF KARNATAKA
DHARWAD BENCH
DHARWAD



THIS CRIMINAL APPEAL COMING ON FOR FURTHER HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ)

This appeal is directed against the judgment dated 31.03.2022 and order on sentence dated 05.04.2022 passed by the Court of III Additional District and Sessions Judge, Ballari sitting at Hospet in S.C. No.5011/2017.

2. Vide impugned judgment and order, the trial Court has convicted the appellant-sole accused for the offence punishable under Section 302 of IPC and sentenced him to undergo imprisonment for life and to pay a fine of ₹1,00,000/-, in default of payment of fine, to further undergo simple imprisonment for a period of 3 years.

3. Learned counsel for the appellant submitted that the sole appellant/accused died on 09.08.2025, due to cancer and therefore, the appeal would abate. Memo along



with the copy of the death Certificate and the receipt for having deposited fine of ₹1,00,000/- is filed. The same is taken on record. Since, the appeal is against the judgment of conviction and sentence, which include imposition of fine, the appeal would not abate as regards sentence of fine.

4. In this regard it is useful to refer to the decision of the Apex Court reported in **AIR 2020 SUPREME COURT 559** in the case of **RAMESAN (DEAD) THROUGH LR.GIRIJA A. VS. STATE OF KERALA.** Relevant paragraph Nos.6 and 19 are extracted hereunder:-

"6. The only question to be decided in this appeal is as to whether in the facts of the present case, the accused who was sentenced for imprisonment as well as for fine, the High Court committed an error in not abating the appeal in toto.

19. We, thus, conclude that the appeal filed by accused Ramesan in the High Court was not to abate on death of the accused. The High Court rightly did not direct for abatement of appeal and proceeded to consider the appeal on merits. The appeal before the High Court being against



sentence of fine was required to be heard against the sentence of fine despite death of accused-appellant."

5. We are aware of the fact that the legal representatives of the appellant have not filed any application seeking leave to continue the appeal. However, the learned counsel would submit, he has instruction from the legal heirs of the deceased-appellant to argue the case on the question of fine imposed by the trial Court.

6. It is the case of prosecution that deceased R. Basavana Gouda is the elder brother of the accused. There was a dispute between them with regard to change of khatha in respect of the lands allotted to their shares. While carrying out agricultural work, the accused was quarreling with his brother and family members and threatening the deceased. The house of the deceased and the accused were situated adjacent to each other. The drain water from roof of the house of accused was falling on the house of the deceased. Hence, the accused was nurturing ill will against his deceased brother.



7. On 28.04.2016, the deceased was alone in Kogali village. His wife i.e., the first informant and their children were in the house of her parents at Bhujanga Nagar. During that time, accused picked up quarrel with the deceased and assaulted him with a club (Jali kattige) on his head. On account of which, he sustained bleeding injuries to the head and succumbed to the injury at the spot.

8. The learned Sessions judge having appreciated the evidence and material on record and mainly relying on the evidence of the eye witnesses viz., PWs.7, PW.9 and PW.13 held the accused guilty of the charged offence under Section 302 of IPC. The relevant paragraphs of the judgment are extracted hereunder.

"41. With regard to quarrel between the accused and the deceased before assaulting, it is also clearly deposed by independent cited eye witnesses/P.Ws.7, 9 and 10 (13).

42. After quarreling, assaulting by firewood/Jali club/M.O.1. by the accused, to the left ear of the deceased, is also clearly deposed by P.Ws.7, 9 and 13



(Seizing of M.O.1 from the place of incident is stated in the spot mahazar and deposed by spot mahazar witnesses.)

43. *It is also clearly deposed by P.W.7, 9 and 13, after assaulting, the deceased fell down/collapsed and P.W.7 and 13 depose that afterwards, again, the accused assaulted, two to four times, to the back of the deceased.*

44. *Due to the assault, there was bleeding from the ear, nose and mouth of the deceased and the same has been seen and deposed by P.Ws.3 to 8, 14, 17/Doctor and P.W.18. The same is stated in Ex.P.4/inquest mahazar, Ex.P.5/spot mahazar, Ex.P.9/cloth seizure mahazar, Ex.P.12/P.M. report and blood stains were found in the cloths, marked M.O.3 to 5, which were worn by deceased at the time of incident.*

45. *P.Ws.7, 9 and 13, independent cited eye witnesses, have clearly identified the accused and depose the place and time of the incident, quarrel between the accused and the deceased; afterwards, the accused assaulting to the left ear of the deceased by M.O.1/(ಜಾಲಿ ಕಟ್ಟಿಗೆ) and the deceased fell down/collapsed and even P.W.7 and P.W.13, depose with regard to assault by accused to the body, or back of the deceased. Absolutely nothing has been elicited in the*



cross-examination of P.Ws.7, 9, 13 to discard their evidence in that regard.

46. No ill-will is attributed to the independent eye witnesses/P.W.7, 9 and 13, since, there is no cross-examination to that effect, nor even suggestion in that regard.

47. P.W.7 has clearly deposed after the assault by the accused, the said Basavana Gouda immediately collapsed. P.W.9 and P.W.13 also depose that immediately after the assault, the deceased fell down. They also depose that the deceased died at the same place, where he was assaulted. Admitted facts need not be proved. Further, the evidence of P.Ws.7, 9 and 13 is corroborated by the admissions of the accused, by way of suggestions to P.W.3 in her cross-examination, in para-4, last line" It is false to suggest that my husband did not die due to assault of accused". In the cross-examination of P.W.9 "It is true that the deceased fell at the spot, where he was assaulted. It is true that he lost his life at the same spot----. It is false to suggest that I was not present at the scene of crime, where the accused assaulted the deceased". Further, in the cross-examination of P.W.13, it is suggested "It is true that after the assault, the deceased fell at the spot and did not rise." From these suggestions, the accused has



clearly admitted the assault by the accused to the deceased; due to the said reason, the deceased fell at the spot, where he was assaulted and the deceased did not rise/ lost his life/died at the same place.

48. Inquest mahazar/Ex.P.4 shows the external injuries such as swelling over left ear. P.M. report/Ex.P.12 shows and doctor/P.W.17 deposes abrasion over left scapula and on dissection of dead body of the deceased, it was found out-swelling over left parital temporal part of the skull, mannungel layer was ruptured; bleeding was present in cerebral part of brain and fracture of cervical vertebra and dislocation of tempo mandibular joint. Further, the doctor opines that the cause of death was due to Neuro Vascular shock caused by cerebral hemorrhage secondary to head injury. Even, on examination of M.O.1/firewood/(ಜಾಲಿ ಕಟ್ಟಿಗೆ), he opines that the injuries found on the body of the deceased could be had, by assaulting that person by M.O.1/(ಜಾಲಿ ಕಟ್ಟಿಗೆ). Nothing is elicited in the cross-examination of the doctor to discard his evidence. Hence, they corroborate the evidence of P.Ws.7, 9 and 13. At the cost of repetition, P.W.7, 9 and 13 depose assaulting by the accused, by M.O.1, to the left ear of the deceased. "



9. As per postmortem report-Ex.P12, death is on account of neurovascular shock caused by external hemorrhage secondary to head injury. PWs.7, 9 and 13 are the eyewitnesses to the incident. They are the villagers who were present at the spot when the incident took place. They have categorically stated about the accused quarrelling with the deceased and assaulting him on the left side of the ear with a club. Their evidence is corroborated by the medical evidence, exhibit P.12, the evidence of the doctor-PW.17 who conducted autopsy. Motive for the offence is also spoken by PW.3-wife of the deceased and PWs.5 and 6 children of the deceased. They have withstood the cross-examination. There is nothing elicited in their cross-examination to disbelieve the case of prosecution. Evidence of PWs.7, 9 and 13 is consistent and trustworthy. They are the villagers and independent witnesses, having no animosity against the accused.

10. In view of the above evidence on record, the impugned judgment convicting the accused for the offence



punishable under Section 302 IPC does not call for interference.

11. As regards imposition of fine, the learned counsel would submit that the appellant died due to cancer and he has left behind his wife and 3 children and his daughter is unmarried and therefore, the sentence of fine may be modified, by imposing a minimum fine.

12. The trial Court has imposed a fine of ₹1,00,000/-. Further, ordered that the wife and children of the deceased are entitled to compensation of ₹4,00,000/-, to be paid to them through DLSA, Ballari. It is submitted that the entire fine has been deposited before the trial Court.

13. Keeping in view the submissions of the learned counsel and in the facts and circumstances of the case, the fine imposed in this case can be reduced. Accordingly, the following:-



ORDER

Appeal is dismissed.

The sentence of fine imposed against the appellant-accused passed by the Court of III Addl. District and Sessions Judge, Ballari sitting at Hospet in S.C.No.5011/2017, vide order dated 05.04.2022 for the offence punishable under Section 302 of IPC is hereby modified and reduced to ₹25,000/-, which shall be remitted to the State Treasury.

The trial Court shall refund the balance amount to the wife of the appellant, on due identification.

**Sd/-
(MOHAMMAD NAWAZ)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

HMB
CT-MCK
LIST NO.: 1 SL NO.: 14