



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 41 OF 2019 (C)

C/W

CRIMINAL APPEAL NO. 1489 OF 2019

IN CRL.A No. 41/2019

BETWEEN:

ASHRITH @ ASHU
AGED ABOUT 19 YEARS,
S/O B KAMALAKSHA,
THOTADAMANE, KABYADI,
R/AT ASHRITHMANE, HOIGEBAIL,
ASHOKNAGARA, MANGALURU,
D.K.DISTRICT-575001

...APPELLANT

(BY SRI. SIRAJUDDIN AHMED., ADVOCATE)

AND:

STATE OF KARNATAKA
BY POLICE INSPECTOR,
URVA POLICE STATION,
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDINGS,
BANGALORE-560001.

...RESPONDENT

(BY SRI. VIJAY KUMAR MAJAGE, SPP-II.)



NC: 2026:KHC:34573-DB
CRL.A No. 41 of 2019
C/W CRL.A No. 1489 of 2019

THIS CRL.A. IS FILED U/S.374(2) CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER OF CONVICTION DATED 22.12.2018, AND SENTENCE DATED 26.12.2018, PASSED BY THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, D.K., MANGALORE IN S.C.NO.106/2014, CONVICTING THE APPELLANT/ACCUSED NO.1 FOR THE OFFENCE P/U/S 341,302 OF IPC.

IN CRL.A NO. 1489/2019

BETWEEN:

STATE OF KARNATAKA
BY POLICE INSPECTOR
URVA POLICE STATION,
REP. BY STATE PUBLIC PROSECUTOR
HIGH COURT BUILDING, BENGALURU-01

...APPELLANT

(BY SRI. VIJAY KUMAR MAJAGE, SPP-II.)

AND:

1. ASHRITH @ ASHU
S/O B KAMALAKSHA
AGED 23 YEARS,
R/O ASHRITHMANE, HOIGEBAIL,
ASHOKNAGARA, MANGALURU-575001
2. ABHILASH @ ABHI
S/O LATE MOHAN
AGED ABOUT 25 YEARS,
R/O HOIGEBAIL, ASHOKNAGARA,
MANGALURU-575001
3. VIKAS @ VIKKI
S/O GANESH PUTRAN
AGED ABOUT 24 YEARS,
R/O KANCHAN NIVASA
SULTHAN BATTERI ROAD,
BOLURU, MANGALURU-575001



NC: 2026:KHC:34573-DB
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4. KARTHIK
S/O BHASKAR
AGED ABOUT 25 YEARS,
R/O LAKSHMI COMPOUND,
GUDDE SHALE, ASHOKNAGARA
MANGALURU-575001
5. PUNEETH
S/O GIRIDHAR
AGED ABOUT 25 YEARS,
R/O SRI BHAGAVATHI SUNDAR NIVAS
HOIGBAIL, ASHOKNAGARA,
MANGALURU-575001
6. VIJAY
S/O RAJESH
AGED ABOUT 27 YEARS,
R/O NEAR HINDUSTAN
LEVER LTD. COMPANY
BOLUTU, MANGALURU-575001

...RESPONDENTS

(BY SRI. SIRAJUDDIN AHMED, ADV. FOR R1,
SRI. HAREESH BHANDARY T., ADV. FOR R2 & R4,
SRI. P. P. HEGDE, SR. COUNSEL A/W
MS. SAMEEKSHA T.R., ADV. FOR
SRI. VENKATESH SOMAREDDI, ADV. FOR R3,
SRI. PALLAVA R., ADV. FOR R5,
SRI. KETHAN KUMAR, ADV. FOR R6.)

THIS CRL.A IS FILED U/S 378(1) AND (3)CR.PC
PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE
IMPUGNED JUDGMENT AND ORDER OF ACQUITTAL DATED
22.12.2018 PASSED BY THE LEARNED I ADDITIONAL
DISTRICT AND SESSIONS JUDGE, D.K., MANGALURU IN
S.C.NOs.106/2014 AND 85/2015 IN SO FAR AS IT RELATES
TO ACQUITTING THE RESPONDENT/ACCUSES NO.1 FOR
THE OFFENCE P/U/S 143,147,148 R/W 149 OF IPC, AND
ACQUITTING THE ACCUSED NO.2 TO 6 FOR THE OFFENCE
P/U/S 143,147,148,341,302 R/W 149 OF IPC.



THESE APPEALS, COMING ON FOR FURTHER HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

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

1. The judgement of conviction dated 22nd December, 2018 and the order on sentence dated 26th December, 2018 passed by the I Additional District and Sessions Judge, DK, Mangaluru in Sessions Case Nos.106 of 2014 and 85 of 2015, are assailed in these appeals.

2. Criminal Appeal No.41 of 2018 is preferred by accused No.1 against the conviction and sentence passed against him for the offences punishable under Sections 341 and 302 of Indian Penal Code.

3. Criminal Appeal No.1489 of 2015 is preferred by the State against the acquittal of accused 1 to 6 for the offences punishable under Sections 143, 147, 148 read



with 149 of Indian Penal Code, and acquittal of accused 2 to 5 for the offences punishable under Sections 341 and 302 read with Section 149 of Indian Penal Code.

4. Heard the learned Counsels appearing for accused 1 to 6, learned SPP-II appearing for the State. Perused the evidence and material on record.

5. Brief facts of the case:

About a month prior to 22.05.2014, N Jayaprakash (PW10) and Chinnu (PW11) had been to a Parota shop at Kudroli. At that time, accused No.1 inflicted burn injuries to them with a cigarette butt. They informed the matter to the deceased, Sanjay alias Varun. The deceased, along with his friends, went to the house of accused No.1 and questioned him about the burn injuries caused to his friends. Due to this, the accused No.1 developed animosity towards the deceased and threatened to commit his murder. With that motive, on 22.05.2014, at about 2.00 pm, near Kallurti Temple, Modern Rice Mill, Hoigebail when the deceased had gone to the house of his friend



Mahesh (PW8) along with PW2-Rajesh, to invite him for his birthday, accused No.1 came to the spot on his Dio two-wheeler armed with a knife, and accused 2 to 6 also came there by walk. Accused No.1 stabbed the deceased with the knife he was possessing, indiscriminately all over his body, while accused 2 to 6 surrounded the deceased.

6. Upon receiving information regarding the incident, Police rushed to the spot and shifted the injured to A.J. Hospital, Mangalore, wherein, he was declared brought dead.

7. Law was set into motion by Janardhan, father of the deceased. Based on his complaint-Ex.P1, PW25-Police Inspector of Urva Police Station, registered a case and transmitted the First Information Report-Ex.P19 to the jurisdictional Court and to his higher officers.

8. Accused 1 to 4 surrendered before the Court on 24.05.2014. They were taken to Police custody on 28.05.2014. Accused No.5 was arrested on 25.05.2014.



The voluntary statements of accused 1 to 4 were recorded. Blood stained clothes, knife and motorcycle were seized at the instance of accused No.1. Upon completion of the investigation, charge-sheet was filed against accused 1 to 5 and additional charge-sheet against accused No.6.

9. Accused 1 to 6 pleaded not guilty to the charges framed against them and claimed to be tried. In order to establish the charges, prosecution, in all, examined PWs.1 to 25 and marked Exs.P1 to P24 and material objects MOs.1 to 10. The defence side got marked Exs.D1 and D2, portion of the statements of PWs.5 and 6, respectively.

10. On appreciation of the oral and documentary evidence on record, the trial Court held accused No.1 guilty of offences punishable under Sections 302 and 341 of Indian Penal Code. The trial Court acquitted accused 2 to 6 of all the charges.



11. Assailing the impugned judgement, learned counsel for accused No.1 vehemently contended that the sole evidence of PW2 is not sufficient to base conviction, as the other two eye-witnesses viz. PW3 and PW8 have not supported the case of prosecution. He contended that there are material contradictions in the evidence of PW1; the recovery of blood stained knife and clothes is doubtful, since the panch witnesses have not deposed regarding the blood stains found either on the clothes or on the knife, allegedly recovered at the instance of the accused. He further contented that blood group of the stains could not be determined as per FSL report, and therefore, the recovery of clothes and knife cannot be connected to the alleged crime in question. In support of his contentions, learned counsel relied on the following decisions:

- 1. RAMESH BABURAO DEVASKAR AND
OTHERS v. STATE OF MAHARASHTRA -
(2007)13 SCC 501;**



**2. BALWAN SINGH v. STATE OF
CHHATTISGARH AND ANOTHER - (2019)7
SC 781;**

**3. KHALIL KHAN v. STATE OF MADHYA
PRADESH - (2003)11 SCC 19.**

12. Learned counsel appearing for accused 2 to 6 contended that in the First Information Report, the names of accused 2 to 6 are not mentioned and later they are falsely implicated. There is absolutely no evidence against them to show that they too shared the common object with accused No.1 to commit the offence. He contended that the trial Court having appreciated the entire evidence and material on record, has rightly come to the conclusion that the said accused are innocent of the charges levelled against them. In view of the acquittal, the presumption of innocence against the said accused is reinforced. In support of his contentions, the learned Counsel relied on the judgement of the Hon'ble Apex Court in the case of **RAMESH BABULAL DOSHI v. STATE OF GUJARAT** reported in **1996(9) SCC 225**.



13. Per contra, learned SPP-II contended that this is a case based on direct evidence and even though PW3 and PW8 have not fully supported the case of the prosecution, the evidence of PW1 establishes the charge levelled against the accused beyond reasonable doubt. He contended that the prosecution has proved the motive by examining PWs.10 and 11 and even PWs.1, 2 and 6 have spoken about the motive. He contended that the blood-stained knife and clothes are recovered at the instance of accused No.1. As per the FSL report, those articles were stained with human blood. Both the panch witnesses PW4 and PW15, have supported the recovery mahazar. He contended that when accused No.1 was inflicting fatal injuries on the deceased, accused 2 to 6 have surrounded him, thereby preventing him from escaping from the spot. He therefore contended that the appeal preferred by accused No.1 be dismissed and the judgement insofar as acquitting accused 2 to 6, may be



set aside and the said accused be convicted and sentenced for the charged offences.

14. The incident took place on 22.05.2014 at about 2.00 pm near Kallurti Temple, Modern Rice Mill, Hoigebail, Mangalore. According to the prosecution, accused No.1, who was nurturing ill-will against the deceased Sanjay alias Varun, on account of the previous enmity, came to the spot armed with a knife and stabbed him indiscriminately all over his body and committed his murder. Accused 2 to 6 said to be the friends of accused No.1 also came to the spot by walk and surrounded the deceased when Accused No.1 was inflicting stab injuries on the deceased.

15. Motive for the alleged offence is that, about a month prior, accused No.1 had caused burn injuries to PW10-N Jayprakash and PW11-Chinnu, friends of the deceased, and they had complained to the deceased against accused No.1. Hence, the deceased along with



them, went to the house of accused No.1 to question about his act. Being enraged, accused No.1 threatened to finish the deceased and hence, he was waiting for an opportunity to finish him.

16. According to the prosecution, on 22.05.2014 at about 2.00 pm, deceased along with PW2-Rajesh, had gone to the house of their friend Mahesh (PW8) to invite him for his birthday party. At that time, accused No.1 came on a two wheeler and stabbed the deceased with knife. PW2/Rajesh, informed the matter to the complainant (PW1) viz. the father of the deceased, who along with his wife, went to A.J. Hospital and saw the dead body of their son. In Ex.P1-Complaint, PW1 has stated that PW2-Rajesh came and informed him about accused No.1 stabbing his son Sanjay and also the motive for the offence.

17. PW25-Police Inspector who received the complaint-Ex.P1 from PW1, registered a case against



accused No.1. He proceeded with investigation, went to A.J. Hospital and conducted the inquest mahazar. The dead body was subjected to post-mortem examination. The Doctor who conducted the autopsy is examined as PW12. Post-mortem report is marked as Ex.P9, as per which, the deceased has sustained the following external injuries:

1. Obliquely placed incised punctured wound on left frontal eminence, 9cm x 2.2cm x exposing the transected scalp and intact frontal bone.
2. Obliquely placed incised punctured wound on front of the left external ear in its upper part, 1cm x 0.6cm x exposing the torn cartilage.
3. Obliquely placed incised punctured wound on back of left external ear, just outer to the mastoid bone, 0.9cm x 0.6cm x exposing the intact cartilage.
4. Vertically placed spindle shaped incised punctured wound on left side of the neck, 6cm above and 6cm away from the sternal notch, 2cm x 0.9cm x exposing transected muscles.
5. Obliquely placed spindle shaped incised penetrating wound on just above the left collar bone in its middle



part, inner end being 7cm outer to the sternal notch, 4cm x 1.5cm x exposing the transected muscles, pleura on left side and left pleural cavity.

6. Horizontally placed spindle shaped incised penetrating wound on front of the chest on left side, corresponding to 4th intercostal space in the anterior axillary line, 14cm below and 9cm away from sternal notch, 3cm x 2.6cm x exposing the transected muscles, pleura on left side, left pleural cavity, incised penetrating wound on the anterior surface of upper lobe of left lung (2.5cm x 0.2cm x 0.4cm), torn pericardium, incised penetrating wound on the anterior wall of left ventricle near the apex and entering into the left ventricle (2.8cm x 0.2cm x 1.8cm).
7. Obliquely placed spindle shaped incised punctured wound on front of the chest on left side, corresponding to 5th rib in the mid clavicular line, 15cm below and 11cm away from sternal notch, 0.4cm x 0.2cm x exposing transected sub-cutaneous tissue.
8. Obliquely placed spindle shaped incised penetrating wound on front of the abdomen in the mid-line, 33cm below the sternal notch, 2cm x 0.7cm x exposing transected muscles, peritoneum and intact abdominal contents.



9. Obliquely placed spindle shaped incised punctured wound on back of the left shoulder. 1cm x 0.5cm x exposing the transected muscles.
10. Obliquely placed spindle shaped incised penetrating wound on back of chest on left side in its outer half, 17.5cm below and 15.4cm away from external occipital protuberance, 3cm x 1.5cm x exposing the transected muscles.
11. Obliquely placed spindle shaped incised penetrating wound on back of the chest on right side in its outer half, 23cm below and 14cm away from external occipital protuberance, 4cm x 0.9cm x exposing the transected muscles, pleura on right side and right pleural cavity.
12. Obliquely placed spindle shaped incised penetrating wound on back of the chest on left side in its inner half, 26cm below and 1cm away from external occipital protuberance, 1.5cm x 0.7cm x exposing the transected muscles.
13. Obliquely placed incised punctured wound on outer aspect of left thigh in its upper part, 0.6cm x 0.4cm x exposing the transected muscles.
18. The cause of death is due to incised penetrating wound to the left ventricle of the Heart. As per Ex.P9, all



the aforementioned injuries were fresh in duration (less than 12 hours old at the time of death) and antemortem in nature. PW12 has opined that the deceased could have died about 4-6 hours prior to the post-mortem examination and the external injuries, 1 to 12 were caused by a sharp weapon having pointed tip.

19. There is no dispute with regard to the homicidal death of the deceased. However, it is the contention of the learned counsel for accused No.1 that out of the three witnesses projected as Eye-witnesses by the prosecution, PW3 and PW8 have turned hostile and there are contradictions in the evidence of PW1 and therefore, on the basis of his sole testimony, the trial Court was not justified in convicting accused No.1.

20. We have perused the evidence of PW1. He has deposed that on 22.05.2014, he along with the deceased had gone to the House of CW3 (PW8) and when they were talking near the house of one Gopal, accused No.1 came on his black colour two-wheeler and the remaining five



accused came there by walk. Accused No.1, abused the deceased in filthy language. As there was a chance of quarrel, all the five accused surrounded the deceased and accused No.1 removed the knife and stabbed him on his neck, head, chest, back and abdomen. The deceased collapsed to the ground. CW3 (PW8), thinking that he too will be assaulted, ran away from the spot. He has further stated that he was in shock and did not know what to do. Dinesh (PW3) informed the police about the incident. Accused No.1 fled away on his two wheeler. He has further stated that the incident took place at about 2 to 2:30 pm. Thereafter, Police van came and the injured was shifted to the hospital. He went to the house of the deceased and informed his father (PW1) about the incident and they went to A.J. Hospital. However, by that time, the injured had succumbed to the injuries.

21. PW2 has further deposed in his evidence about the motive for accused No.1 to commit the offence. He has stated that about a month prior to the incident, CW11



(PW10) and CW12 (PW11) had been to the Parota shop. Accused No.1 who was present there, caused burn injuries to them with a cigarette butt. The matter was informed to the deceased, who went to the house of accused No.1 along with his friends and complained to the father of accused No.1. His father advised them not to quarrel and sent them back. At that time, accused No.1 threatened the deceased that he will not spare him and will kill him.

22. PW2 has withstood the cross-examination conducted by the defence. However, the learned counsel for Accused No.1 contended that according to PW2, his clothes were blood stained, but the said clothes were not seized by the police. He therefore contended that if really, PW2 was an eye-witness and his clothes were blood-stained, the police would have seized those clothes.

23. Non seizure of clothes of PW2 by the police, itself is not a ground to disbelieve the evidence of PW2. In his cross-examination, PW2 has stated that he did not



produce the clothes before the Police. Hence, the seizure of his clothes by the police is not fatal.

24. The learned counsel contended that even though PW2 is projected as an eye-witness, his statement was not recorded by the Police at the hospital and he has not informed the police about the incident. Therefore, his presence at the spot at the time of incident is doubtful. He further contended that PW1, PW2 and the deceased are all rowdy-sheeters, against whom criminal cases are registered and therefore, some other person committing the offence is not ruled out.

25. PW2 in his cross-examination, has admitted that he did not inform the police at the A.J. Hospital about witnessing the incident. At the same time, he has stated that the Police did not enquire him or PW1 in the hospital about the incident. There is no delay in setting the law into motion. The incident took place on 22.05.2014 at 02.00 pm and after coming to know about the incident, the victim's father went to the hospital and thereafter, went to



the Police Station and lodged the complaint as per Ex.P1, naming accused No.1. The case was registered at 03.30 pm on the same day. Hence, just because accused No.1 did not inform about the incident to the police at the hospital, is not a ground to disbelieve his evidence.

26. To establish the motive, the prosecution has got examined PW10 and PW11. Both of them have supported the case of the prosecution. The said witnesses have stated that, on 11.04.2014, when they had gone to a Parota shop in Kudroli, accused No.1 and his friends were present in the said shop. Accused No.1 abused them in foul language and inflicted burn injuries to them with the cigarette butt. They ran away from there and on the next day, they informed the matter to the deceased. On the same day, they along with the deceased and PW2, went to the house of accused No.1 and complained to his family members. At that time, his father advised them not to quarrel. However, accused No.1 threatened the deceased that he will not spare him. The motive is also spoken by



PW1 and PW5, parents of the deceased, as well as PW2. From their evidence, it stands established that accused No.1 had a motive to commit the offence.

27. Though, PW3 and PW8 are also eye-witnesses to the incident, they have not supported the case of prosecution and they have been treated hostile. Therefore, their evidence is not helpful to the prosecution.

28. After the arrest of accused No.1, the blood-stained shirt (MO.7) blood-stained pant (MO.8) and the blood-stained knife (MO.6) were seized at his instance. PW4 and PW15, are the panch witnesses to the seizure panchanama-Ex.P6.

29. The learned counsel for the accused No.1 contended that, according to PW15, he did not sign the mahazar at the spot and therefore, he being a witness to the seizure, is doubtful.

30. In the cross-examination, PW15 has denied that Ex.P6 was prepared in the police station, though he has



admitted that the police did not take his signature at the spot. Both PW4 and PW15 have given evidence with regard to the recovery of the shirt, pant and the knife at the instance of accused No.1. Merely, because they have not stated that those articles were blood-stained or in the FSL report the blood group was not mentioned, that itself is not a ground to disbelieve the recovery mahazar. As per Serology Report, the articles were stained with human blood. Hence, there is no reason to disbelieve the recovery evidence. The blood group of the stains found on the articles could not be determined because the results of the test were inconclusive.

31. In the case of **RAMESH BABURAO DEVASKAR** (supra) relied upon by the learned counsel for accused No.1, it is a case where FIR came to be lodged after the inquest was held and in the inquest panchanama, it was stated that the deceased was assaulted with sharp-edged weapons by some unknown assailants. In that context, the Hon'ble Apex Court raised a doubt about the



eyewitness, not lodging any First Information Report. The above decision referred to by the learned counsel for accused No.1, is not applicable to the facts of the present case. In the case on hand, the eye-witness (PW2) has immediately gone to the house of the deceased and informed the matter his father, the complainant (PW1). In his complaint, PW1 has stated about PW2 narrating the incident to him and the role of accused No.1. The FIR was lodged without any delay. Subsequent to lodging of the FIR, the inquest was conducted. On the very same day, the statement of PW2 was recorded.

32. The facts of the judgments relied upon by the learned counsel for accused No.1 in the case of **BALWAN SINGH** (supra) and **KHALIL KHAN** (supra) are entirely different. In **KHALIL KHAN's** case, there was no eye-witness. The case was based mainly on the dying declaration. The said dying declaration was found to be unworthy of acceptance and the recoveries were made at the police station. In **BALWAN SINGH's** case, the



statements of the eye-witnesses were recorded belatedly after 8 days of the incident and the prosecution also failed to establish the conspiracy. The FSL report also did not support the prosecution case. Hence, the Hon'ble Apex Court, extended the benefit of doubt to the accused.

33. Insofar as the involvement of accused Nos.2 to 6 is concerned, in the earliest version of the prosecution, it was not alleged that the said accused had surrounded the deceased when accused No.1 was stabbing him. In the FIR, accused Nos.2 to 6 are not named. In complaint-Ex.P1, it is only stated that even 5 others who came by walk had also quarrelled. For the first time, before the Court, PW2 has stated that the remaining 5 accused had surrounded the deceased.

34. The evidence of PW2 that even other 5 accused surrounded the deceased, itself will not establish that they had come to the spot with a common object of committing the murder. In fact, accused No.1 came separately on his two-wheeler and other accused, according to the



prosecution, came by walk. Only accused No.1 was possessing a knife. He, immediately on reaching the spot, abused the deceased and stabbed him. The prosecution has also not shown any motive for accused Nos.2 to 6 to commit the offence. According to the prosecution, it is only accused No.1 who had vengeance against the deceased. The findings recorded by the trial Court for acquitting accused Nos.2 to 6 are therefore, in accordance with law.

35. In **RAMESH BABULAL DOSHI's** case (supra) relied upon by the learned counsel appearing for accused Nos.2 to 6, the Hon'ble Apex Court has held that when the reasons given by the trial Court for recording the order of acquittal is cogent and convincing, the High Court is not justified in disturbing the same by reappraising the evidence. Hence, no interference is warranted in the judgment passed by the trial Court.



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36. For the foregoing reasons, Crl.A.No.41/2019 preferred by accused No.1 and Crl.A.No.1489/2019 preferred by the State are **dismissed**.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(G BASAVARAJA)
JUDGE

LNN,DHA,TL
List No.: 1 Sl No.: 13